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No. 47] NEW DELHI, SATURDAY, NOVEMBER 21, 1953

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 14th November 1953 :—

Issue No.	No. and date	Issued by	Subject
289	S. R. O. 2084, dated the 10th November, 1953.	Ministry of Food and Agriculture.	Cancillation of the order in the Ministry of Food and Agriculture No. S. R. O. 1988 dated the 2nd Dec. 1952.
290	S. R. O. 2085, dated the 10th November, 1953.	Ministry of Commerce and Industry.	The Central Govt. authorises Shri Mangtu Ram Jaipuria to take over the management of the Jagdish Sugar Mills Limited.
291	S. R. O. 2117, dated the 13th November, 1953.	Delimitation Commission, India.	Final order No. 3 in respect of the determination of members of seats reserved for Scheduled Castes of Hyderabad and Saurashtra in the House of the People and the Legislative Assemblies of these two states.
292	S. R. O. 2118, dated the 14th November, 1953.	Ministry of Commerce and Industry.	Amendment made in the notification No. S. R. O. 1940, dated the 19th October, 1953.
293	S. R. O. 2119, dated the 14th November, 1953.	Election Commission, India.	Appointment of Chairman of the election tribunal for the trial of election petition duly presented by Shri Kishan Lal Lamrer, Advocate, Ajmer.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3

Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).

ELECTION COMMISSION, INDIA

New Delhi, the 11th November 1953

S.R.O. 2127.—In pursuance of sub-rule (5) of rule 114 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1951, the name of the person shown in column 1 of the Schedule below who having been nominated as a candidate for bye-election to the Ajmer Legislative Assembly from the constituency specified in column 2 thereof, and having appointed himself to be his election agent at the said bye-election, has, in accordance with the decision given by the Election Commission under sub-rule (4) of the said rule, failed to lodge the return of election expenses within the time and in the manner required and has thereby incurred the disqualifications under clause (c) of section 7 and section 143 of the Representation of the People Act, 1951 (XLIII of 1951), is hereby published:—

SCHEDULE

Name of the Candidate 1	Name of constituency 2
Shri Budha	Gagwana.

[No. AJ-LA/53(2)BYE/5937.]

P. N. SHINGHAL, Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 12th November 1953

S.R.O. 2128.—In pursuance of clause (1) of article 239 of the Constitution, the President hereby directs that the Chief Commissioner of Delhi shall, subject to the control of the Central Government and until further orders, exercise the powers of the State Government under sub-clause (d) of clause (10) of section 3 of the General Clauses Act, 1897 (Act X of 1897), to appoint for the State of Delhi the Chief Controlling Revenue Authority or the Chief Revenue Authority in relation to matters other than those specified in List I in the Seventh Schedule to the Constitution.

[No. 20/7/53-Judicial.]

New Delhi, the 21st November 1953

S.R.O. 2129.—In exercise of the powers conferred by sections 46 and 47 of the Indian Ports Act, 1908 (XV of 1908), the Central Government hereby directs with effect from the 21st January 1954—

(i) that a vessel entering any of the ports of Port Blair, Elphinstone Harbour, Maya Bander (formerly known as Port Bonington), Camorta and Car Nicobar in the Andaman and Nicobar Islands in ballast and not carrying passengers shall be charged with a port-due at half the rate with which she would otherwise be chargeable;

(ii) that when a vessel enters any of the ports named in paragraph (i) above but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair) she shall be charged with a port-due at half the rate with which she would otherwise be chargeable;

(iii) that a vessel in distress with cargo on board brought into the harbour in tow shall be charged full port-dues, but if the vessel has no cargo on board the port-dues shall be charged at half the rate with which she would otherwise be chargeable; and

(iv) that a vessel that has paid half the port-dues under paragraphs (i) and (ii) above and re-enters the port with cargo and/or passengers within the 30 days for which payment has been made, shall be charged the difference between the dues already paid and those payable at the full rate.

[No. 56/3/49-A.N.]

S.R.O. 2130.—In exercise of the powers conferred by sub-section (1) of section 35 of the Indian Ports Act, 1908 (XV of 1908), the Central Government hereby directs that fees for piloting vessels entering or leaving any of the ports in the Andaman and Nicobar Islands to which the said Act extends, shall be charged at a flat rate of Rs. 100 for each vessel irrespective of tonnage or draught when the services of a pilot are demanded.

[No. 56/3/49-AN.]

S.R.O. 2131—In exercise of the powers conferred by sub-section (1) of section 33 of the Indian Ports Act, 1908 (XV of 1908), the Central Government hereby directs that with effect from the 21st January 1954 port dues shall be levied on vessels entering any of the ports of—

1. Port Blair,
2. Elphinstone Harbour,
3. Maya Bander (formerly known as Port Benington),
4. Car Nicobar, and
5. Camorta,

in the Andaman and Nicobar Islands and described in the first column of the Schedule hereto annexed, at the rates specified in the second column thereof and at the time fixed in the third column of the said Schedule, namely :—

SCHEDULE

Vessels chargeable	Rate of port dues per ton	Due how often chargeable in respect of same vessel.
Sea-going vessels of ten-tons and upwards (except fishing boats)	Two annas per net registered ton and fraction thereof.	Once in 30 days.
2. Coasting vessels of ten tons and upwards (except fishing boats)	One anna and six pies.	Once in 30 days.
3. Country crafts of ten tons and upwards (except fishing boats).	One anna.	Once in 30 days.
4. Tugs, ferry steamers and river steamers.	Two annas.	Once between 1st January and 30th June and once between 1st July and 31st December in each year.

[No. 56/3/49-AN.]

S. R. O. 2132.—In exercise of the powers conferred by sub-sections (2) and (3) of section 33 of the Indian Ports Act, 1908 (XV of 1908), the Central Government hereby adds the following

entries to the First Schedule to the said Act with effect from the 21st January 1954, namely :—

"Part V—Andaman and Nicobar Islands".

Name of Port	Vessels chargeable	Rate of port-dues	Due how often chargeable in respect of same vessel
Port Blair . . .	Sea-going vessels of ten tons and upwards (except fishing boats)	Not exceed ing three annas per ton	Once in 30 days.
Elphinstone Harbour .	Coasting vessels of ten tons and upwards (except fishing boats)	Not exceeding three annas per ton	Once in 30 days.
Maya Bander (formerly known as Port Benington)	Country crafts of ten tons and upwards (except fishing boats)	Not exceeding one anna and four pies per ton	Once in 30 days.
Camorta, Car Nicobar	Tugs, ferry steamers and river steamers	Not exceeding three annas per ton	Once between 1s January and 30t June and once between 1st July an 31st December i each year.

[No. 56/3/49.A.N.]

N. SAHGAL, Dy. Secy.

ORDER

New Delhi, the 12th November 1953

S.R.O. 2133.—In exercise of the powers conferred by sub-section (2) of section 63 of the Andhra State Act, 1953 (30 of 1953), the President hereby requires all persons specified by name in column (1) or by official designation in column (2) of the Schedule to this Order, to serve in connection with the affairs of the State of Andhra, as allotted officers or as transferred officers, as stated in the corresponding entries in column (3) of the said Schedule.

SCHEDULE

Name	Official Designation	Allotted Officer or transferred Officer
(1)	(2)	(3)
Madras Forest Department		
1. Sri P. Srinivasa Rao	Assistant Conservator of Forests.	Allotted.
2. Ahmed Sheriff	Do.	Do.
3. S. Seshagiri Rao Naidu	Do.	Do.
4. V. S. Janardhana Rao	Do.	Do.
5. B. R. Ramabhadriah	Do.	Do.
6. A. Suraya Rao Naidu	Do.	Do.
7. Y. Subramaniam Naidu	Do.	Do.
8. T. V. Subba Rao	Do.	Do.
9. A. Ramakrishna	Do.	Do.
10. C. V. Konda Reddy	Do.	Do.

(1)	(2)	(3)
11. A. Lakshmipathi Rao	Assistant Conservator of Forests	Allotted.
12. V. Veerasami Naidu	Do.	Do.
13. Sri M. Ansar Badsha	Do.	Transferred
14. Sri B. Misquith	Ranger	Do.
15. Sri P. V. Ramanaiah	Do.	Do.
16. Sri Y. Vaidyanathan	Do.	Do.
17. Sri H. Rajagopal Shetty	Do.	Do.
18. Sri B. Pattabiramamurthy	Do.	Do.
19. Sri C. Bhaskara Rao	Do.	Allotted.
20. Sri P. V. Rangiah	Do.	Do.
21. Sri G. Samuel	Do.	Do.
22. Sri K. Subramaniam	Do.	Do.
23. Sri T. C. Kesava Rao	Do.	Do.
24. Sri Md. Sultan Mohiddin	Do.	Do.
25. Sri A. Venkataratnam	Do.	Do.
26. Sri Md. Hussainuddin	Do.	Do.
27. Sri Y. S. Baskarachari	Do.	Do.
28. Sri V. S. V. Suryanarayanamurthy	Do.	Do.
29. Sri M. Nagabhushanam	Do.	Do.
30. Sri V. Brahmmeswara Rao	Do.	Do.
31. Sri A. Venkata Rao	Do.	Do.
32. Sri B. Subakaran Singh	Do.	Do.
33. Sri D. P. Chowdhri	Do.	Do.
34. Sri A. Gopalakrishnan	Do.	Do.
35. Sri C. Varadharajulu	Do.	Do.
36. Sri K. Martin Luthur	Do.	Do.
37. Sri P. Peeraiah	Do.	Do.
38. Sri B. V. Subbaiah	Do.	Do.
39. Sri Y. C. Lakshmiah	Do.	Do.
40. Sri P. Sunderasan	Do.	Do.
41. Sri Y. V. Hanumantha Rao	Do.	Do.
42. Sri M. Sriramulu	Do.	Do.
43. Sri K. Subbanna	Do.	Do.
44. Sri K. Appa Rao	Do.	Do.
45. Sri E. Chinnaswami	Senior Instructor, Forest Guards' school.	Do.
46. Sri P. V. Somayaluju	Junior Instructor, Forest Guards' School.	Do.
47. Sri B. Rajarathnam	Ranger	Do.
48. Sri Syed Sufdar Hussain	Do.	Do.
49. Sri R. Subrahmanyam	Do.	Do.
50. Sri K. Lakshman Singh	Do.	Do.
51. Sri S. Venkatasubbiah	Do.	Do.
52. Sri Syed Abdul Khudus	Do.	Do.
53. Sri B. Md. Akbar	Do.	Do.
54. Sri M. Gopalakrishnaiah	Do.	Do.
55. Sri S. Srinivasa Rao	Do.	Do.
56. Sri C. Venugopal	Do.	Do.
57. Sri P. Ramakrishniah	Do.	Do.
58. Sri T. Ramachandriah	Do.	Do.
59. Sri S. Chandrapal	Do.	Do.
60. Sri S. Nagaratnam	Do.	Do.
61. Sri K. Ragaviah	Do.	Do.
62. Sri Anwar Hussain	Do.	Do.
63. Sri S. Magdum Hussain	Do.	Do.
64. Sri M. Suryanarayana	Do.	Do.
65. Sri P. Ranga Rao	Do.	Do.
66. Sri P. Gaddayya	Do.	Do.
67. Sri R. Venkataramana Rao	Do.	Do.
68. Sri S. Radhakrishnamoorthy	Do.	Do.
69. Sri C. P. Bhimaraj	Do.	Do.
70. Sri A. Venkateswara Reddi	Do.	Do.
71. Sri S. V. Subba Rao	Do.	Do.
72. Sri K. James Paul	Do.	Do.
73. Sri D. Narasiah	Do.	Do.
74. Sri P. V. Ramana	Do.	Do.

(1)	(2)	(3)
75. Sri M. Venkata Reddy	Ranger	Allotted.
76. Sri R. Sambamurthi	Do.	Do.
77. Sri P. Sadisiva Rao	Manager, Conservator's Office, Kakinada Circle.	Do.
78. Sri P. Venkateswar Rao	Accountant, Conservator's Office, Kakinada.	Do.
79. Sri M. Joga Rao	Manager, Conservator's Office, Bellary Circle.	Do.
80. Sri M. Satyanarayanamurthy	Acting tour clerk Conservator's Office, Bellary Circle.	Do.
81. Sri M. Sreenivasa Rao	Stands posted as tour clerk Conservator's Office, Bellary Circle.	Do.
82. Sri Md. Hussain	Acting Manager Conservator's Office on leave.	Do.
83. Sri W. Raja Rao	Upper Division Clerk Chief Conservator's Office.	Do.
84. Sri Y. V. Ramana Rao	Do.	Do.
85. Sri Syed Jan Md. Shavali	Lower Division Clerk Chief Conservator's Office	Do.
86. Sri P. S. Venkataraman	Typist	Transferred.
87. Sri B. L. Vedagiri	Typist	Do.

[No. 26/4/53-AIS(I).]

R. C. DUTT, Joint Secy.

MINISTRY OF FINANCE

New Delhi, the 10th November 1953

S.R.O. 2134.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution, the President, after consultation with the Comptroller and Auditor General of India, hereby directs that the following amendments shall be made in the Central Civil Services (Part 'B' States transferred employees) Rules, 1953, published with the notification of the Government of India in the Ministry of Finance No. S.R.O. 843, dated the 29th April, 1953, namely:—

In sub rule (1) of rule 6 of the said Rules:—

(a) after the letter and words "A transferred employee", the words, figures and brackets "who held a permanent post in a substantive capacity immediately before the date specified in clause (ii) of rule 1 shall" shall be inserted; and

(b) for the words "department under the Government shall", the words "department under the Government" shall be substituted.

H. F. B. PAIS, Dy. Secy.

MINISTRY OF FINANCE (REVENUE DIVISION)

HEADQUARTERS ESTABLISHMENTS

New Delhi, the 14th November 1953

S.R.O. 2135.—In pursuance of clause (b) of sub-rule (ii) of rule 2 of the Appellate Tribunal Rules, 1946, the Central Government is pleased to appoint Shri S. D. Gupta, Income-tax Officer, as Authorised Representative to appear, plead and act for an Income-tax Authority who is party to any proceedings before the Income-tax Appellate Tribunal, with effect from 27th August 1953.

[No. 82.]

G. L. POPHALE, Dy. Secy.

MINISTRY OF COMMERCE AND INDUSTRY

Bombay, the 5th November 1953

S.R.O. 2136.—In exercise of the powers conferred on me by clause 18 of the Cotton Control Order, 1950, I hereby direct that the following further amendment shall be made in the Textile Commissioner's notification No. S.R.O. 827, dated 10th May 1952, namely:—

In paragraph 2 of the said notification, read with the amendment S.R.O. 1826, dated 23rd September, 1953, the following item shall be inserted, namely:—

"(g) the States of Rajasthan and Ajmer".

[No. 44(12)CT(A)/53(V).]

M. R. KAZIMI,
Joint Textile Commissioner.

S. A. TECKCHANDANI, Under Secy.

CORRIGENDUM

New Delhi, the 21st November 1953

S.R.O. 2137.—In the Ministry of Commerce & Industry Notification No. S.R.O. 2016 dated the 26th October, 1953, for the name 'Shri S. Aravanuthan' against item 9, please read "Shri K. R. Aravamuthan".

[No. 14(4)-CT(A)/53.]

S. A. TECKCHANDANI, Under Secy.

CENTRAL TEA BOARD

New Delhi, the 11th November 1953

S.R.O. 2138.—In exercise of the powers conferred by sub-clause (d) of clause (ii) of sub-section (3) read with sub-sections (4) and (5) of section 4 of the Central Tea Board Act, 1949 (XIII of 1949), the Central Government hereby notify that Mr. W. S. S. Mackay, nominated by the United Planters Association of South India, shall be a member of the Central Tea Board *vice* Mr. G. R. Thurnham, resigned.

2. Mr. Mackay shall hold office for a term ending with the date on which the Tea Board is established and constituted under the Tea Act, 1953 (XXIX of 1953).

[No. 94(1)Plant/52.]

A. NANU, Dy. Secy.

MINISTRY OF FOOD AND AGRICULTURE

(Agriculture)

New Delhi, the 12th November 1953

CORRIGENDUM

S.R.O. 2139.—For the word 'Asansol' appearing in the last line of this Ministry Notification of even number dated the 23rd September, 1953, the word 'Burdwan' shall be substituted.

[No. F.1-40/53-Comm.II.]

New Delhi, the 16th November 1953

S.R.O. 2140.—In pursuance of the provisions of Sub-section (e) of Section 4 of the Indian Central Oilseeds Committee Act, 1946 (IX of 1946), the Government of Rajasthan have nominated Shri Shamsher Singh, Director of Agriculture, Rajasthan, Jaipur, to be a member of the Indian Central Oilseeds Committee with effect from 1st April, 1953.

[No. F.5-60/53-Com.I.]

S.R.O. 2141.—In exercise of the powers conferred by Section 4(4) (vi) of the Indian Lac Cess Act, 1930 (XXIV of 1930), the Central Government is pleased to nominate Shri Ravidutta Sawalram Sharma, Secretary, M.P. Lac Chapra Vyapar Wardhini Sabha, Gondia, as a member of the Governing Body of the Indian Lac Cess Committee to represent indigenous shellac manufacturers for a term of 3 years with effect from the 1st October, 1953.

[No. F.3-11/53-Com.I.]

S.R.O. 2142.—In exercise of the powers conferred by Section 4(4) (vii) of the Indian Lac Cess Act, 1930 (XXIV of 1930), the Central Government is pleased to nominate Shri Bazlul Karim, M.Sc., Manager of Pagaldanga Shellac Factory, 51, Ezra Street, Calcutta, as a member of the Governing Body of the Indian Lac Cess Committee for a term of 3 years with effect from the 1st October, 1953.

[No. F.3-11/53-Com.I.]

F. C. GERA, Under Secy.

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 13th November 1953

S.R.O. 2143.—In exercise of the powers conferred by clause (c) of section 6 of the Cinematograph Act, 1952 (XXXVII of 1952), the Central Government hereby directs that the exhibition of the film "My Son John" in respect of which a "U" certificate No. 7264,, dated the 15th December, 1952, was granted to Messrs Paramount Films of India Ltd., Bombay by the Central Board of Film Censors, shall be suspended for a period of two months from the date of this notification.

[No. 12/28/53-FII.]

D. KRISHNA AYYAR, Under Secy

MINISTRY OF HEALTH

New Delhi, the 12th November 1953

S.R.O. 2144.—In exercise of the powers conferred by sub-sections (1) and (2) of section 7 of the Drugs Act, 1940 (XXIII of 1940), the Central Government hereby directs that the following further amendment shall be made in the notification of the Government of India, in the Ministry of Health, No. F.1-3/47-D(II), dated the 13th September, 1948, constituting the Drugs Consultative Committee, namely:—

In the said notification, under the heading 'Nominated by State Governments', for entry 7, the following entry shall be substituted, namely:—

"(7) Dr. H. B. Swift, M.B.B.S., M.R.C.S., (Eng.), L.R.C.P. (London), D.P.H., Deputy Director, Health Services (Medical), Punjab."

[No. F.4-20/53-D.S.]

KRISHNA BIHARI, Under Secy.

New Delhi, the 13th November 1953

S.R.O. 2145.—Dr. S. N. Mathur, M.B., B.S., M.S., F.R.C.S., Lucknow, has been re-elected by the members of the Medical Council of India as a member of the Dental Council of India with effect from the 24th October, 1953, under clause (b) of section 3 of the Dentists Act, 1948 (XVI of 1948).

[No. F.6-14/53-M.I.]

R. NARASIMHAN, Asstt. Secy.

MINISTRY OF EDUCATION

ARCHAEOLOGY

New Delhi, the 11th November 1953

S.R.O. 2146.—In exercise of the powers conferred by Sub-section (3) of Section 3 of the Ancient Monuments Preservation Act, 1904 (VII of 1904) the Central Government hereby confirms its notification No. D.2328/53-A.2, dated the 10th June, 1953 declaring the ancient monument (Bir Singh Palace at Datia) described in the Schedule annexed to the said notification to be a protected monument within the meaning of the said Act.

[No. D.2328/53-A.2.]

S.R.O. 2147.—In exercise of the powers conferred by Sub-section (3) of Section 3 of the Ancient Monuments Preservation Act, 1904 (VII of 1904) the Central Government hereby confirms its notification No. F.4-5/53-A.2, dated the 29th June, 1953 declaring the ancient monuments described in the Schedule annexed to the said notification to be protected monuments within the meaning of the said Act.

[No. F.4-5/53-A.2.]

T. S. KRISHNAMURTI, Under Secy.

MINISTRY OF COMMUNICATIONS

New Delhi, the 13th November 1953

S.R.O. 2148.—In exercise of the powers conferred by section 5 of the Indian Aircraft Act, 1934 (XXII of 1934), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Aircraft Rules, 1937 the same having been previously published as required by section 14 of the said Act, namely—

In the said Rules, after rule 130A, the following rule shall be added:—

"130B. The Central Government may by notification in the Official Gazette direct that in relation to, and to the persons on, aircraft registered in India but engaged in air transport service operating wholly outside India the provisions of these rules shall apply subject to such restrictions and modifications as may be specified in the notification.

[No. 10-A/29-53.]

K. V. VENKATACHALAM, Dy. Secy.

MINISTRY OF TRANSPORT

(Transport Wing)

New Delhi, the 13th November 1953

CORRIGENDUM

S.R.O. 2149.—In the Cochin Port Rules, 1953, published with the notification of the Government of India in the Ministry of Transport, No. S.R.O. 1782, dated the 14th September, 1953, at pages 1495-1500 of the Gazette of India, Part II, Section 3, dated the 26th September, 1953—

(a) in sub-rule (6) of rule 17 under the heading "Signal" *for* "Steamer's house flag over Flag To", *read* "Steamer's house flag over Flag T";

(b) in sub-rule (3) of rule 22, *for* "dingnies", *read* "dinghies".

[No. 6-PII(61)/52.]

C. PARTHASARATHY, Dy. Secy.

MINISTRY OF LABOUR

New Delhi, the 11th November 1953

S.R.O. 2150.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award in respect of a complaint, under Section 33-A of the said Act, against Messrs. Indian Copper Corporation Ltd., Ghatsila, by Mrs. R. C. Smith, an employee of the Company.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

APPLICATION No. 306 OF 1953

(Arising out of Reference No. 6 of 1953)

In the matter of an application U/s 33A of Industrial Disputes Act 1947

PRESENT:

Shri L. P. Dave, B.A., LL.B.—*Chairman.*

PARTIES:

Mrs. R. C. Smith, Nursing Sister, P.O. Mosaboni Mines, Dt. Singhbhum—*Complainant.*

Versus

Messrs. Indian Copper Corporation Ltd., P.O. Ghatsila, Dist. Singhbhum—*Opposite Party.*

APPEARANCES:

None appeared from either side.

AWARD

This is a complaint under section 33A of the Industrial Disputes Act 1947.

2. The complainant was working under the opposite party as a Nursing sister. She was discharged by the opposite party on 10th August 1953 during the pendency of Reference No. 6 of 1953 relating to some disputes between the opposite party and their workmen. The complainant therefore filed the present application.

3. Usual notice was issued to the opposite party to file its reply to the complaint. The opposite party accordingly filed its reply on 25th September 1953 and the matter was fixed for hearing on 19th October 1953 and notices were sent about it to both parties. In the meanwhile, a letter purporting to have been signed by the complainant stating that she wanted to withdraw the application was received by this Tribunal by post. A letter was addressed to the complainant informing her that a letter purporting to be signed by her and stating that she wanted to withdraw the application had been received by this Tribunal and calling upon her to confirm whether the said letter bore her signature and she really wanted to withdraw the application. In reply to this letter, she again wrote a letter to the Tribunal stating that she confirmed that the original letter bore her signature and that she really wanted to withdraw the application.

4. Neither party appeared before the Tribunal on 19th October 1953, the date on which the matter was fixed for hearing. This must be because the complainant did not want to proceed with the complaint and had written accordingly to this Tribunal. Under the circumstances, the complaint is dismissed. I pass my award accordingly.

L. P. DAVE, *Chairman,*

Central Government Industrial Tribunal Dhanbad.

[No. LR-2(379).]

New Delhi, the 12th November 1953

S.R.O. 2151.—In pursuance of section 17 of the Industrial Disputes Act, 1947 XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in an industrial dispute between the workmen of the Mosaboni Mines and their management, the Indian Copper Corporation Ltd.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

REFERENCE NO. 6 OF 1953

PRESENT:

Shri L. P. Dave, B.A., LL.B.—*Chairman.*

PARTIES:

The workmen of the Mosaboni Mines,

AND

Their management, Indian Copper Corporation Limited.

APPEARANCES:

Shri P. K. Sanyal, Advocate, Supreme Court—*For the workmen.*

Shri S. C. Sen, M.A., B.L., Advocate—*For the management.*

AWARD

By Order No. LR.2(379) dated 6th May 1953, the Government of India, in the Ministry of Labour, has referred the dispute between the workmen of the Mosaboni Mines and their management, the Indian Copper Corporation Limited, in respect of the matters specified in the Schedule annexed thereto for adjudication to this Tribunal. The Schedule originally contained seven items. By Order of even number dated 10th June 1953, one more item was added to the Schedule. The eight items in the Schedule are reproduced below and they are the issues in the present case:—

"1. Profit Sharing Bonus for 1951 and subsequent years.

2. Medical Attendance at the residence of the employees.

3. Reinstatement of the following workmen with compensation for the intervening period of unemployment:—

(a) Shri S. Rafiguddin.
(b) Shri Brahma Damal.
(c) Shri Dhanbir Sonar.
(d) Shri Noor Muhammad.
(e) Shri Padam Bahadur Sonar.
(f) Shri Feku Singh.
(g) Shri Rahman Thapa.
(h) Shri Krishna Bahadur Noor.
(i) Shri Raman Nair.
(j) Shri M. Pushpanathan.
(k) Shri Krista Chandra Pati.
(l) Shri Sk. Bhadrul Hossain.
(m) Shri Gopi Nath Saloo.
(n) Shri Sk. Nasur.
(o) Shri Birinchi Narayan Mishra.
(p) Shri S. S. Patnaik.
(q) Shri Damodar Tripathi.
(r) Shri P. Parasuram.

4. Revision of existing wage structure for all workers and raising the minimum rate of an underground unskilled worker to Rs. 2 per day and scheme for fitting the employees within the revised wage structure in terms of their length of service.

5. Alleged victimisation of the following workmen:—

(a) Shri S. C. Nandi.
(b) Shri S. P. Das.
(c) Shri G. P. Banerjee.
(d) Shri H. K. Das.
(e) Shri N. Ghosh.

(f) Shri B. Lohar.

(g) Shri Kali Charan Patnaik.

(h) Shri Rajani K. Das.

(i) Shri Lakhindar Patnaik.

(j) Shri Govinda.

(k) Shri Bibhuti K. Khawas.

(l) Shri Khirandhar Pandey.

(m) Shri Francis.

(n) Shri N. N. Naik.

(o) Shri A. Rahman.

6. Whether the existing school should be raised to the status of a high school with the medium of instruction as Hindi and English only.

7. Whether the office boys of the underground time offices should be designated as carbide distributors and their rates of pay adjusted accordingly.

8. Whether or not the employees at the Mines are entitled to any wages for the period of lay-out as a result of the strike at the Moubhandar factory and to what extent."

2. To appreciate the points involved, a few undisputed facts may be mentioned here. The Mosaboni mines are copper mines and copper ores are mined there. They are transported by aerial ropeway to Moubhandar, which is about six miles from Mosaboni and they are smelted and refined in a factory at Moubhandar. Moubhandar is situated near the Ghatsila Station of the Eastern Railway on the north of Subernarekha river while Mosaboni is to the South of the river. Mosaboni mines are the only mines in India, where copper ores are extracted. Most of the refined copper is utilised at the Moubhandar factory for manufacturing of brass sheets, while a small portion is sold in the market. Both the Mosaboni mines and the Moubhandar factory belong to the Indian Copper Corporation Limited. There are about 5,000 workmen working in the Mosaboni mines and about 2,300 workmen at Moubhandar factory. There are two different unions of the workmen working at the Mosaboni mines and the Moubhandar factory respectively.

3. It appears that some disputes arose between the management and its employees both at the mines and at the factory and a Conciliation Board was appointed in 1938 for the purpose of effecting a settlement in regard to the wages and other matters. A dispute again arose in 1944, which was decided by Adjudication. A dispute arose again in 1946-47 and it was again referred to adjudication. The adjudicator gave his award, which was published in the *Bihar Gazette* on 28th July 1947. A dispute once again arose in 1949 and it was referred for adjudication to this Tribunal and my learned predecessor Shri S. P. Varma gave his award on 15th October 1949 and the same was published in the *Gazette of India* of 10th November 1949 at page 2219. Copies of gazettes containing 1947 and 1949 awards were produced before me by the parties but the earlier awards were not so produced. Actually no reference was made to the earlier awards before me.

4. Usual notices were issued to the parties and they have filed their written statements both to the original reference and to the additional point referred to subsequently. At the request of the parties, the hearing of the case was taken up at Mosaboni when both parties examined a number of witnesses and several documents were produced by both parties. At the time of arguments some further documents were produced by the parties and they have been exhibited with the consent of the other side. Later on also, both parties have sent some further documents to the Tribunal. I shall proceed to consider and discuss the different points referred to me.

ISSUE NO. 1

Profit sharing bonus for 1951 *and subsequent years*

5. The first and most important issue in this case is regarding the Profit Sharing Bonus for 1951 and subsequent years. The Union contended that the profit sharing bonus should be linked with net profits instead of with dividends as at present and put forward the scheme which is in operation in the Tata Iron and Steel Company Limited as a model for the same. The profit sharing bonus scheme of the Tatas has been produced at Exhibits 140 and 141 under which the net profits are arrived at after providing for certain amounts like payment of taxes, depreciation etc., and out of these net profits, 27½ per cent. are to be distributed among the employees of the company. After the matter was closed, the

Union has sent me a letter producing therewith a copy of a newspaper which declared as a piece of information that this percentage was revised to 30 per cent.

6. At present the workmen of the Indian Copper Corporation Limited are granted bonus according to the dividends declared and paid by the company to the shareholders, at the following rates:—

Upto and including 2½ per cent. dividend—no bonus.

If the dividend exceeds 2½ per cent. but does not exceed 7½ per cent.—two weeks' wages.

If the dividend exceeds 7½ per cent. and does not exceed 12½ per cent.—three weeks' wages.

If the dividend exceeds 12½ per cent. but does not exceed 17½ per cent.—four weeks' wages, and

thereafter one more week's wages for every additional 5 per cent. dividend.

7. It appears that the scheme of profit sharing bonus based on dividends was introduced by the company as a result of Conciliation proceedings held in 1938. At that time, the rates of bonus were less than the above rates. At the time of 1947 adjudication, the question of profit sharing bonus was one of the questions that came up for adjudication and was dealt with by the adjudicator as question No. 12 and is found discussed by him at page 7 of the award. The adjudicator, after considering the question, fixed the rates of profit sharing bonus as mentioned above. It does not appear that the question of linking up the bonus with net profits as against linking it up with dividends was raised at the time nor was it considered by the Adjudicator. The cases of two other concerns, namely Tinplate Company of India Limited, Jamshedpur and the Indian Steel Corporation, Burnpur, were cited before the adjudicator. In both these cases, bonus was linked with dividends. The only question that was then raised was about the rates and the adjudicator fixed the above rates which are now prevalent.

8. At the time of 1949 adjudication, the question of profit sharing bonus was again re-agitated as issue No. 9 in those proceedings. At that time, the Union's claim was that instead of bonus being linked with dividends, it should be linked with the net profits and demanded that 22½ per cent. of the net profits arrived at after making necessary deductions for depreciation etc. should be distributed among the workmen as profit sharing bonus. The learned adjudicator observed that no special arguments had been advanced before him as to why the then prevailing system of profit sharing bonus should be altered and ordered that it should continue.

9. In the present dispute, the union has contended that the profit sharing bonus should be linked with the net profits, as in the case of Tata Iron and Steel Company Limited, Jamshedpur, instead of its being linked with dividends as at present. Mr. Sanyal, on behalf of the Union, referred to the case of Mill Owners Association, Bombay, *Versus* Rashtriya Mill Mazdoor Sangh, Bombay, reported at 1952, Labour Appeal Cases page 433. In that case, the Full Bench of the Labour Appellate Tribunal of India considered the case of the bonus and it was awarded on the basis of profits. It, however, does not appear that the question of linking the bonus with the dividends was considered in that case. Reading the judgment as a whole, I do not think that the case lays down as a principle that in all cases profit sharing bonus should be linked with net profits and not with dividends. In that case, it was assumed that the bonus should be linked with profits. This case cannot therefore help the Union for holding that the profit sharing bonus must be linked with net profits.

10. I was also referred to the case between the different companies of Bombay and their workmen reported at 1953, Vol. II, Labour Law Journal, page 246, where also bonus was declared on the basis of the net profits. Here also the question whether the bonus should be linked with the profits or with dividends was not considered and this case cannot therefore be taken to be an authority for holding that in all cases profit sharing bonus should be linked with profits and not with dividends.

11. On the other hand, we have the well known case of Messrs. Buckingham & Carnatic Mills Limited, reported at 1951, Vol. II, page 314, where bonus was awarded on the basis of dividends declared by the company. It may be noted that in that case it was argued on behalf of the workmen that the profit sharing bonus should not be linked with dividends but should be linked with net profits and several objections (most of which have been raised before me) were advanced against the formula of linking bonus with dividends. The Labour Appellate

Tribunal of India did not accept those objections and held that the system of linking bonus with dividends should continue.

12. As I said above, the system of profit sharing bonus linked with dividends has been introduced from 1938 and appears to have worked well in these long years. It should not ordinarily be disturbed except on strong grounds. I do not think that the mere fact that a big concern like the Tata Iron & Steel Company Limited has adopted a particular scheme, the same should be adopted in this case. It would not be a proper ground to change this scheme which has been in vogue for a long time and does not appear to have caused any hardship.

13. It was argued on behalf of the Union that the company might take large amounts to the reserve funds and later on capitalise the reserve fund in which case the shareholders would get an advantage while the workers would be deprived of the bonus on this reserve fund which may be capitalised. This is hypothetical question. In the present case, the company has so far never capitalised any of its reserve funds as was done in the case of Buckingham & Carnatic Mills Limited and even in spite of the capitalisation of reserve funds, the Labour Appellate Tribunal of India held that that was no ground for changing the system of linking bonus with dividends.

14. My attention was drawn by Mr. Sanyal on behalf of the Union to the Director's Report and Statement of Accounts for the year 1951, Exhibit 90, and in particular to the Chairman's address. It appears that in 1951 the company made a profit of £ 889,712. Out of this, it took over £ 100,000 towards depreciation; £ 455,000 as provision for taxation and £ 175,000 towards general reserve. It then declared a dividend of 12½ per cent. free of income-tax which required £ 114,275. In his address, the Chairman mentioned that the amount of profits in that year was a record for the company and that in considering the question of dividends, the directors had taken into account the necessity of conserving funds for the development of the company's activities and for financing the present high stocks of manufactured products. From the balance sheet of this year, it would appear that as against the issued capital of £ 9,14,200, the company has a general reserve of £ 8,10,000 including the amount transferred to this fund in the year 1951. On the other hand, we have to remember that the mining industry is a wasting asset and more so in the case of copper mines. In the case of copper mines, the deposits are not continuous and are an unknown factor. Finding of new ore is always uncertain and requires boring and prospecting at different places at different levels. The company must therefore of necessity conserve its resources for preserving the industry and continue working of the mine or mines at different places. As the ores are extracted, the working would go deeper and explorations would have to be made and large amounts would be necessary for the same. As pointed out by the company, in its written statement, it may be necessary to find more capital if and when the present mines were exhausted. The figures shown by the company at page 9 of its written statement about the capital expenditure also show that it is a very large item. The company has also not been able to declare large dividends as can be seen from the statement made at page 6 of the company's written statement. It is human nature that the shareholders would like to have as much dividend as possible; and ordinarily if the company has made huge profits in a particular year, the shareholders would also like that they get a proportionately large dividend that year. But if the company thinks that it is desirable to conserve its resources for future purposes, it cannot be said that they are doing an improper thing. If they do not do so, it may turn out that after some years, the present ores get exhausted and the company would have no funds for prospecting and for working some other mine or mines. In that case, the company may have to close down. If instead of doing so, the company conserves its resources and creates a reserve fund for meeting future contingencies, I think that it should be considered a step in the right direction. Further the creation of a reserve fund may help the company in declaring the same dividends even if in a particular year the company has not made sufficient profits to justify payment of that dividend. In that case, the workmen would also get a larger bonus, even though the net profits may not justify that bonus. In other words, it will be an advantage both to the shareholders and the workmen.

15. It has also been alleged by the Union in its written statement that the balance sheet may be unreal or overloaded, and that the workers have got no control over the declaration of dividends. The first is a hypothetical objection. It has not been alleged and no attempt has been made to show that in any year, the balance sheet was unreal or over loaded. The mere fact that the workers have no control over the declaration of dividends would not be a proper ground to change the system of calculation of bonus. The shareholders are also interested in getting larger dividends, and if the profits justify it, they would claim and get

a higher dividend; and the workers would also get the advantage of a higher bonus.

16. As I said above, the main argument of the Union was that this scheme of declaring bonus on the basis of net profits should be adopted here because the same is adopted by the Tatas. This would not be a proper approach to the case. It is to be remembered that Tatas are a big concern and it would not be proper that all its schemes should be made applicable to other concerns. It is then to be remembered that the Tatas are mainly a factory for preparing iron and steel from the ore, while the main work of the present company is extraction of copper ore. Different considerations would prevail in the two concerns.

17. After carefully considering all the objections raised on behalf of the Union, I am not satisfied that the present scheme of linking bonus with dividends is in any way bad or should be changed or that the bonus should be linked with net profits. I hold that the present system of linking bonus with dividends should continue.

18. The next question is as to whether the rates in force at present require revision. I have already given the rates above which show that for the first 2½ per cent. dividend, there is to be no bonus; but the workmen would get two weeks wages when the dividend is upto 7½ per cent.; and after this, they get an additional week's wages for every 5 per cent. of the dividend. In my opinion, this rate is certainly low. As a matter of fact, the company has indirectly admitted this. A dispute between the company and the Union about bonus for 1951 arose in December 1952 and the workmen resorted to a strike and there was a settlement on 24th December 1952 (Exhibit 66) under which the company agreed to pay to the employees 6½ weeks wages in advance for profit sharing bonus for 1951. According to the scheme now in force, the workmen should have got only four weeks wages as bonus for 1951; but the company agreed to pay 6½ weeks wages in advance showing that the company indirectly admitted that the present rates were low. It may then be noted that this very question arose between the company and the Union of the Moubhandar factory workmen, which also resulted in a strike; ultimately there also was a compromise on 5th June 1953 (Exhibit 63), under which it was agreed that the profit sharing bonus shall be linked with dividends and further that the quantum of profit sharing bonus for 1951 was agreed to be 8½ weeks basic wages. It was further agreed that the workers of the factory would be made an additional payment of half week's basic wages as *ex gratia* payment. At the time of arguments, Mr. Sen on behalf of the company stated that this was arrived at on the basis that the bonus should be one week's wages for every two per cent. of gross dividend. It was further said that the dividend of 12½ per cent. for 1951 was free of income-tax and hence the gross dividend came to something less than 17 per cent. and hence it was agreed that bonus was to be equal to 8½ weeks wages. Thus the company has agreed to higher rates of bonus with the Union of Moubhandar factory; and it would but be fair that the mines workers also get higher bonus. Actually, Mr. Sen on behalf of the management conceded that the new rates agreed between the management and the Moubhandar Union should be applied to the Mosaboni mines workers.

19. So far as the workmen are concerned, no serious objection was raised on their behalf to the new rates agreed by the management with the Moubhandar Workers Union. Their main contention was that bonus should be linked with profits instead of with dividend. In my opinion, the rate of bonus for 1951 onwards should be one week's wages for every two per cent. or part thereof of the gross dividend declared by the company.

20. It was however urged on behalf of the Union that on this basis, the bonus for 1951 would not be equal to 8½ weeks' wages or 9 weeks' wages but that it would be more than 11 weeks' wages. It was urged that the amount of dividend paid to the shareholders was free of income-tax and that as the company had to pay income-tax both in India and in the United Kingdom, the amount of income-tax paid in India and in the United Kingdom on behalf of the shareholders should be taken into account in arriving at the gross dividend. I do not completely agree with this contention.

21. It appears that the company had originally its registered office at London i.e. in the United Kingdom and it had therefore to pay income-tax both in the United Kingdom and also in India. Later on, however, it now has transferred its registered office to Calcutta and it is therefore not liable and has not to pay any income-tax in the United Kingdom. This would appear from the company's reports and dividend warrants. Exhibit 143 is the company's report and statement of accounts for the year 1949. It would appear from the appropriation

account at page 6 therein that in that year provision was made for payment of £ 1,56,000 as profits tax in the United Kingdom and £ 47,000 as income-tax in the United Kingdom. To this was added an amount of £ 1,40,000 as relief in respect of Indian income-tax, making United Kingdom income-tax £ 1,87,000. In India, the company paid £ 9,000 as business profits tax for three months upto 31st March 1949 and £ 2,31,000 as the income-tax for the entire year. Out of this £ 1,40,000 was deducted because of relief from United Kingdom income-tax and the Indian income-tax was therefore shown as £ 91,000. It may also be noted, that this report also mentions the corresponding figures of the previous years *i.e.* 1948. In that year, the profit tax of United Kingdom is shown as £ 70,000. The United Kingdom income-tax is shown as £ 1,26,000, to which an equal amount was added as relief in respect of Indian income-tax and the United Kingdom income-tax was therefore shown as £ 2,52,000. The business profits tax for India was shown as £ 57,000 while the Indian income-tax was shown as £ 1,85,000 less £ 1,26,000 for relief in United Kingdom income-tax; thus the Indian income-tax was shown as £ 59,000.

22. Exhibit 154 is a counterfoil in respect of the dividend for the year 1949. It may be noted that in that year the dividend declared was 12½ per cent. less income tax and so nine shilling per pound were deducted from the dividend paid to th shareholders. A memo was shown at the back of the warrants, showing the gros amount of dividend and the income-tax deducted therefrom and also net amour of dividend. Thus in respect of 100 units of stock, the gross dividend at 12½ pe cent. came to £ 1-5-0. Out of this, an amount of £ 0-11-3 was deducted as income-tax at nine shillings in the pound making the net amount of dividend £ 0-13-9.

23. We then have Exhibit 144 which the report and statement of accounts for the year 1950. It shows that in that year, United Kingdom profits tax was £ 52,000 and the United Kingdom income-tax was £ 204,000 while the Indian income-tax came to £ 2,73,000. No business profits tax had to be paid that year in India, because the business profits tax was not levied after 1st April 1949. This would show that in 1950 also, the company had to pay both the profits tax and the income-tax in the United Kingdom.

24. Exhibit 90 is the Director's report and Statement of Accounts for the year 1951. At the outset, it may be noted that on the front page of this report, the Head Office is shown as in Calcutta as against its being shown in London in the previous reports Exhibits 143 and 144. It may then be noted that in appropriation account of this year, the United Kingdom *profits* tax is shown as £ 1,12,000 while no amount is shown as income-tax for United Kingdom. Provision of £ 4,03,000 is made for Indian income-tax. In the Chairman's address, it has been mentioned that as a result of the transfer of control, the total United Kingdom and Indian tax payable is lower than it would otherwise have been. It is further mentioned that in future years, the profits will not be subject to *any United Kingdom taxation* and this would benefit the company. It may be noted that in 1951 the company had to pay *profits tax* in the United Kingdom; though it had not to pay any income-tax in United Kingdom; and in the future years, the company would not have to pay even this profits tax. That is what the Chairman meant by saying that in future years, the profits would not be subject to *any* United Kingdom taxation. Further the total taxes (combined United Kingdom and Indian taxes) payable in 1951 were lower than what they would have been if the company's registered office had remained in United Kingdom; because in such a case, the company would also have been required to pay income-tax in United Kingdom. It would thus appear in 1951 the company had not to pay a income-tax in United Kingdom.

25. The company have produced Exhibit 150 which is a copy of the dividend warrant sent to all shareholders in connection with the dividend of 1951. Exhibit 153 is a similar copy produced by the Union. On the reverse of these warrants there are two notes. One is that the rate of income-tax for companies at the date of declaration of dividend was 50·4 pies in the rupee and secondly that on the above basis, the net amount of dividend multiplied by 192/192-50·4 or by 1·3559 would give the gross dividend taxed at 50·4 pies in the rupee. It is significant to note that no mention has been made about the United Kingdom income-tax in this dividend warrant. I may also point out that in this dividend warrant, the company has certified that the income-tax on the entire profits and gains of the company of which the dividend formed a part had been or would be paid by them to the Government of India. It does not make any mention of any United Kingdom income-tax. In the dividend warrant of 1949 above referred to (Exhibit 154), the company had certified not only that the Indian income-tax on the entire profits and gains of the company of which the dividend formed a part had been or would be paid by them to the Government of India, but also that

the United Kingdom income-tax deducted from the dividend had been or would be duly accounted for by them to the proper officer for the receipt of such taxes.

26. Reading all the reports and the dividend warrants together, it would be clear that the company had to pay income-tax both in India and United Kingdom, in respect of the profits for the previous years; but in respect of profits for the year 1951, it had not to pay any income-tax in the United Kingdom. Thus, though the shareholders could have claimed refund of United Kingdom income-tax in respect of their dividend warrants for the previous years, they could not claim any refund from the United Kingdom income-tax for the dividend of 1951, as no such tax was payable or paid for that year. The United Kingdom income-tax cannot therefore be taken into account in arriving at the gross dividend for the year 1951. I may mention here that though in 1951, the company had to pay profits tax in United Kingdom, it cannot be taken into account in determining the gross dividend because profits tax is an ordinary tax levied on the company and the shareholders cannot claim any refund thereof. As a matter of fact, it has not been urged on behalf of the workmen that this figure should be taken into account in determining the gross dividend. Only the income-tax has got to be taken into account in determining the gross dividend; and as I said above, the company had not to pay any income-tax in United Kingdom for the year 1951 and hence in determining the gross dividends for that year, we must take into account only the Indian income-tax.

27. The Indian income-tax was 50·4 pies in a rupee. Hence if the company made a profit of one rupee, it would have to pay 50·4 pies as income-tax and its net profit (distributed to the shareholders) in that case would be 141·6 pies. In other words, if the net dividend (that is dividend free of income-tax) is 141·6 pies, the gross dividend would be 192 pies. In that year, the company has declared a dividend of 12½ per cent. free of income-tax. The gross dividend would therefore be 12½x192/141·6 or 16·9487 per cent. That being so, on the basis that the profit sharing bonus should be equal to one week's wages for every two per cent. or part thereof of gross dividend, the bonus for the year 1951 payable to the workmen would be equal to nine weeks wages.

28. I would therefore order that the company should pay to the workmen who are entitled to bonus, a bonus equal to nine weeks' wages as profit sharing bonus for the year 1951. Payment, if any, made by them in pursuance of the agreement Exhibit 66 above referred to may be deducted out of the bonus payable as above. Payment should be made within one month of this award being enforceable.

29. In their written statement, the Union had also urged that at present the qualifying period for the bonus was full one year's continuous service during the year to which the bonus relates, and that as the profits earned were due to the joint efforts of all the workers, it was unfair that the workers, who had put in less service during that year, should be denied the privilege of getting bonus for that year. The Union also stated that it would be equally unreasonable if the bonus was to be paid to all workers in proportion to the length of service, whatever the period may be. They urged that it would be just and proper if the minimum qualifying period of service was fixed at six months. In reply, the company said that the qualifying period was better left undisturbed; because any alteration made now would beget demand for further alterations in the future. Unfortunately no arguments were advanced before me by either party on this point; but by their letter Exhibit 151, the Union have stated that it should not be construed that they abandoned or failed to press this point and that the point may be decided by the Tribunal in the light of facts set out in the respective memoranda submitted by the parties, or whichever way the Tribunal deem fit. The management's reply to this was that as the qualifying period for the Profit Sharing Bonus was not a term of reference, the Tribunal could not consider this point, and that it must limit the scope of the award strictly to the terms of the Reference. In this connection, I may refer to Section 10(4) of the Industrial Disputes Act, which authorises the Tribunal to decide not only the points referred to for adjudication, but also *matters incidental thereto*. The point referred to is "Profit Sharing Bonus for 1951 and subsequent years"; and the question as to which workmen are entitled to the bonus (*i.e.* what should be the period of qualifying service) would be a matter incidental to this question; and I therefore hold that the Tribunal can and must decide it.

30. At present the qualifying period before which a workman can claim a profit sharing bonus for a particular year is one year; that is, he must have put in one year's service before he could get or claim bonus. The Union wants the period to be changed to six months. I think that it is fair that a workman who has put in more than six months service in a particular year must get bonus for

that year. For instance, if a workman joins service a few days after the beginning of the year, he would put in more than eleven months service in that year and yet he could not get any bonus for that year. This would not be fair. The only ground on which the company resisted this claim was that if the present system is altered, it would beget further demands. I do not think that this would be a proper ground for refusing a just grievance of the workmen. In my opinion, a workman who has put in six months' service in a year would be entitled to get bonus for that year; but in his case, the bonus will be proportionate to the service put in by him during that year.

ISSUE NO. 2

Medical attendance at the residence of the employees

31. The Union's demand is that the management should appoint one Lady Doctor and one Additional Assistant Medical Officer for Mosaboni. They urged that there are at present only two doctors at Mosaboni including the Chief Medical Officer, who is to supervise both the Mosaboni and the Moubhandar hospitals and that this leaves only the Assistant Medical Officer to manage the whole show at Mosaboni hospital. It is true that there is one Lady Doctor at Moubhandar and she occasionally visits Mosaboni; but it is urged that looking to the large number of patients at the Mosaboni hospital, the present staff is inadequate and hence it should be increased as above. It was further urged that there is no arrangement for medical attendance at the residence of the employees and this facility should be made available on payment of nominal fees. The management's reply to this is that they have provided a well equipped hospital at Mosaboni and incurred large expenditure therein. They further urge that they cannot incur any further capital expenditure which would be required to implement the Union's demands.

32. At the hearing, the Union did not press the claim for the appointment of an additional Assistant Medical Officer but confined its claim to the appointment of a Lady Doctor. In this connection, they urged that the number of female patients and children patients had increased considerably and looking to the sentiments of the people, they would be reluctant to have their ladies examined by a male doctor and hence a Lady Doctor should be appointed.

33. Mr. Sen on behalf of the management urged that the question of appointment of a Lady Doctor was outside the scope of this reference because the point referred to the Tribunal is "medical attendance at the residence of the employees." He therefore urged that the question of the appointment of a Lady Doctor having been referred to the Tribunal, this demand of the workmen should not be considered or granted. It may be noted at this stage that this point has not been raised in the written statement of the company. Section 10(4) of the Industrial Disputes Act (already referred to by me above) lays down that where in an order referring an industrial dispute to a Tribunal, the Government has specified the points of dispute for adjudication, the Tribunal is to confine its adjudication to these points and *matters incidental thereto*. In view of these last words, the question of the appointment of a Lady Doctor can be gone into by the Tribunal; because that appointment would be a matter incidental to the question of medical attendance at the residence of the employees.

34. Exhibit 93 is a statement of female cases and children treated at the Mosaboni hospital in the year 1952 and it shows that new cases in that year were 508 female indoor patients, and 2,318 outdoor female patients. In addition to this, the children cases were 383 indoor and 4,667 outdoor. Further 109 labour cases were conducted in the hospital and 63 outside labour cases were reported for treatment. Exhibit 127 is a statement showing the average daily attendance of patients at the hospital for the period from 1st July 1952 to 30th June 1953. It shows that the average daily number of male patients was 33·52. It further shows that the female patients averaged 1·17 in the case of employees and 8·51 in the case of families of the employees. The children of the families of the employees averaged 7·74 per day. In other words, as against an average daily number of 33·52 male patients, the number of female and children patients (so far as the employees and their families were concerned) came to 17·42. That means that the number of females and children patients was more than half the number of male patients.

35. As I said above, the present medical staff at the Mosaboni Hospital consists of one Chief Medical Officer and one Assistant Medical Officer, both of whom are males. I am told that the Chief Medical Officer has to visit the Moubhandar hospital once a week. At Moubhandar, there is a hospital where there is one male Medical Officer and a Lady Medical Officer. This latter (namely

the Lady Doctor) visits Mosaboni twice a week. The number of employees at Mosaboni is 5,000 as against 2,300 at Moubhandar. It would thus appear that the Mosaboni workmen have not the same medical facilities which the Moubhandar workmen have got. I may also point out that the question of a Lady Doctor was raised at the time of 1949 adjudication and my learned predecessor observed that the case of the appointment of a Lady Doctor may be taken up by the management, if the number of female patients was sufficiently large. I have pointed out above that the number of female and children patients is more than half the number of male patients and it does call for the appointment of a Lady Doctor.

36. The management objected to the appointment of a Lady Doctor only on the ground of finance. They urged that this would involve capital expenditure and further that the expenditure would be liable to be wasted because of the impending State Insurance Scheme. The only capital expenditure that I was told would be necessary, would be the construction of a bungalow for the residence of the Lady Doctor. I do not think that this expenditure would be so large as to come in the way of giving medical facilities to the employees, especially when the management are already spending a fairly large amount for giving these facilities to its employees. Even when the State Insurance Scheme comes into force, the expenditure would not be wasted; because the bungalow now constructed may be made available to the new officers that may be appointed under the State Insurance Scheme; or the bungalow may be used by some other officer of the company. I do not think that this capital expenditure of constructing a new bungalow would be so great as to come in the way of providing better medical facilities for the workmen. I would therefore direct that the management should appoint a Lady Doctor for the Mosaboni Hospital as early as possible.

37. The workmen's other demand is that there should be a scheme under which a medical officer should attend the employees at their residence on payment of nominal fee. Mr. Sen on behalf of the management said that the management were not opposed to this and they would shortly frame the necessary scheme. I direct that the management should frame a scheme under which the employees, their wives and children may be able to get the medical attendance at their residence on payment of concessional fees. This (framing of scheme) should be done within three months of the award becoming enforceable.

ISSUE No. 3

Reinstatement of the following workmen with compensation for the Intervening Period of Unemployment:—

(a) Shri S. Rafiguddin.
(b) Shri Brahma Damal.
(c) Shri Dhanbir Sonar.
(d) Shri Noor Muhammad.
(e) Shri Padam Bahadur Sonar.
(f) Shri Feku Singh.
(g) Shri Rahman Thapa.
(h) Shri Krishna Bahadur Noor.
(i) Shri Raman Nair.
(j) Shri M. Pushpanathan.
(k) Shri Krista Chandra Pati.
(l) Shri Sk. Bhadrul Hossain.
(m) Shri Gopi Nath Saloo.
(n) Shri Sk. Nasur.
(o) Shri Birinchi Narayan Mishra.
(p) Shri S. S. Patnaik.
(q) Shri Damodar Tirpathi.
(r) Shri P. Parasuram.

38. This issue deals with the reinstatement of 18 workmen mentioned therein. Out of these workmen, the case of (g) Rahman was given up by the Union at the time of hearing. The case of (f) Feku Singh stands on a different footing; but the case of the other sixteen workmen can be considered together.

39. It is not in dispute that a riot took place at Mosaboni on the night of 3rd July 1949, which was a Sunday. Information was given to the police who

started investigation and in the course of the investigation the police arrested about 40 persons including the sixteen workmen referred to in this issue. [all the workmen except (f) and (g)]. These sixteen workmen appear to have been arrested on different, dates between 4th July, 1949 and 10th July 1949. A charge-sheet was sent in by the police against these sixteen persons and two others on 20th August 1949. No charge-sheet was sent in by the police against the other twentytwo persons who had been arrested by them and they were discharged by the Magistrate. Admittedly these twentytwo persons were allowed to resume work at the mines when they reported for duty. The sixteen workmen referred to in this issue were not at first released on bail though they gave applications for it more than once. On 14th November 1949, however 14 of these persons, that is workmen, (a), (b), and (h) to (r) were released on bail. The other two namely workmen (c) and (e), however, continued to remain in custody. It appears that on or about 17th November 1949, these workmen who had been released on bail or at least some of them reported at the mines for duty. The Mines Superintendent Mr. Hill has said in his evidence that he told them that their matter required consideration and that he wanted to consult higher authorities and till then he could not allow them to resume work. He has then said that he consulted the General Manager, Mr. Dempster and they also consulted the Calcutta Head Office and after considering several factors, they thought it not desirable to allow these workmen to resume their duties and thereupon notices were issued to these workmen on 1st December 1949, discharging them from service. It appears that so far as the workmen (c) and (e) are concerned, their names were struck off from the rolls on 10th March 1950. After holding a trial, the Magistrate acquitted the workmen (a) to (e) but convicted the others. Workmen (c) and (e) who, as I said above, were not released on bail when the other workmen so released on 14th November 1949, were released from custody on 14th December 1950, when they were acquitted by the Magistrate. The other workmen, who were convicted by the Magistrate were acquitted in appeal by the Sessions Court on 8th July 1952. **These facts are not in dispute.**

40. The Union's case is that no charge-sheets were issued to these workmen and they got no opportunity to prove their innocence, and thereby the principles of natural justice were violated. It was further alleged in the written statement that most of these persons were responsible members and office bearers of the Union and that is why they were victimised and there was unfair labour practice. It may be noted, however, that there is absolutely no evidence to show that any of these workmen were responsible members or office bearers of the Union.

41. The management urge that they acted in these cases under Rule 9 of their Standing Orders by discharging the workmen giving them 13 days' pay in lieu of notice and they were not bound to give any reasons for the discharge. They further urged that it was not necessary for them to issue a charge-sheet or to hold an inquiry in the matter. On the other hand, the Union urged that the workmen were really discharged for having been involved in the riot and there should have been a charge-sheet and an enquiry before their discharge. It was further urged that discharging the workmen by giving notice was a subterfuge for avoiding an enquiry and amounted to an unfair labour practice.

42. Exhibit 76 is a copy of the Standing Orders of the company. Rule 9 thereof deals with service rules. It provides *inter alia* that the services of any permanent employee who is on a daily rate of pay may be terminated by the General Manager by giving him 14 days notice or 13 days pay in lieu of notice without assigning any reason whatsoever. It then provides that discharge with notice or wages in lieu of notice, for permanent employees will ordinarily be made only in cases where a reduction in establishment renders it necessary or when an employee is considered to be incompetent to carry out the work on which he is employed. The rule then provides that the General Manager of the company and the Mines Superintendent in case of flagrant breach of Mines Act could dismiss summarily any permanent employee without notice or compensation in lieu thereof who after proper investigation was found guilty of any of the ten offences described therein. The rule then prescribes the procedure for less flagrant cases and also mentions certain offences which are to be treated as misdemenour coming under the heading of less flagrant cases. Rule 10 provides for the procedure in dealing with offences. It mentions that in dealing with the less flagrant and habitual cases, the General Manager or Mines Superintendent would issue, before final discharge, a verbal final warning to the offender giving him a last chance. It also provides that in cases of offences involving possibility of dismissal or discharge, the employee should be served with an explanation sheet

and such punishment should not ordinarily be awarded without investigation and consideration of the explanation.

43. Thus the Standing Orders provide for the discharge of a permanent employee giving him notice or pay in lieu of notice without assigning any reason for it; but they also lay down that such discharge should ordinarily be made only in cases of retrenchment or when an employee is found incompetent to do the work for which he is employed. In cases of serious offences, there should be a charge-sheet and an enquiry and then a person could be dismissed.

44. Coming to the evidence, the management have examined the Mines Superintendent Mr. Hill (Exhibit 92), and the General Manager, Mr. Dempster (Exhibit 94). Mr. Hill has stated that when the workmen came to him and asked to be re-employed, he told them that the matter required consideration and that he wanted to consult higher authorities and till then he could not re-employ them. He has further stated that he consulted the General Manager Mr. Dempster and they also consulted their Head Office at Calcutta. He then said that the fact that there were two fires in the mines in that year and also the fact that the police had charge-sheeted these persons and also the fact that the Magistrate had at one time refused to release them on bail were taken into consideration. He has further said that they also took into account the fact that the directors would hold them responsible for the safety of the company's properties and also the fact that they had to look to the safety of the company's servants. In cross-examination, he has said that no charges were framed against these sixteen persons before discharging them and that they were discharged under Rule 9 of the Standing Orders. He has then stated that even after some of these persons were acquitted by the Magistrate, he did not think that their cases required to be reopened; because, as far as he could remember, they were acquitted for lack of evidence. He further said that they did consider the case after acquittal; but on consideration, they thought that the case should not be re-opened. He has further said that even after reading the judgments of the Magistrate and the Sessions Court, he felt that the accused persons were really guilty; but in view of the acquittal by the courts concerned, they were helpless. In his evidence, Mr. Dempster has said that the above sixteen persons were involved in the riot and were arrested by the police. Most of them were released on bail in November and after this they approached Mr. Hill for being taken back on their jobs. Mr. Hill consulted him (Mr. Dempster) as to what should be done in the matter. After consultation and careful consideration, they decided to discharge them by giving them a notice. In cross-examination, he admitted that no charge was framed against any of these persons before their discharge. He further stated that when five of these persons were acquitted by the Magistrate they did consider their cases and came to the conclusion that they should not change their previous orders. He has further said that even after reading the judgments of both the Magistrate and the Sessions Judge, they did not think it fit to reopen the case of anyone.

45. It may be noted that neither Mr. Dempster nor Mr. Hill has any personal knowledge about the riot; because at the time when the riot took place, Mr. Dempster was at Moubhandar while Mr. Hill was on leave in England. Whatever they learnt about the riot would amount to hearsay. Their evidence cannot therefore be taken to prove that any of the above persons had really taken part in the riot.

46. As I said above, it is not in dispute that a riot did take place at Mosaboni. The real question was whether the above persons were involved therein; that is, whether they took part in it. Neither Mr. Dempster nor Mr. Hill had any personal knowledge as to who took part in the riot. They did not record any statements in this connection. They had therefore no evidence before them from which they could come to the conclusion that the above persons really took part in the riot. They may have heard from different persons that the above persons were concerned in the riot, but that would mean that they were relying on gossip, rumours and suspicion.

47. It is true that the persons were charge-sheeted by the police; but it may be remembered that all of them have been acquitted. Some of them were acquitted by the Magistrate while the rest were acquitted by the Sessions Court in appeal. Mr. Hill has said that even after reading the judgments of the Magistrate and the Sessions Judge, he felt that the above persons were guilty; but in view of the fact that he has no personal knowledge in the matter, his opinion has little value.

48. From the evidence of Mr. Hill, it would be clear that the real reason for discharging the above persons was their alleged complexity in the riot. They were prosecuted for it and have been acquitted by the Criminal Courts. It is

true that acquittal by a Criminal Court would not debar the management from taking action against them; if from the evidence before them, they were satisfied that the persons had taken part in the offence; because it may so often happen that there may not be legal evidence which may be sufficient to satisfy a criminal court beyond reasonable doubt about the guilt of that person. But the evidence and the circumstances may be such that the management may be more or less satisfied about the guilt. In the present case, however, that is not so. The management did not even wait till the criminal trial was over. When the persons on being released on bail went to the management and asked for being allowed to work, they were discharged or giving of a notice. I agree with the contention of the Union that the discharge on giving of notice was a subterfuge for avoiding an enquiry and amounted to an unfair labour practice.

49. It was said that originally the police took in custody 40 persons but ultimately sent in a charge-sheet against only 18 of them and that the police did not send a charge-sheet against 22 of the persons who were first arrested by them and that the management allowed these 22 persons to resume their duties as and when they reported for duty and this showed their *bona fides*. In other words, the argument would amount to this that the management considered those persons guilty against whom police had sent in a charge-sheet; that is, the management substituted the decision of the police for their own decision. Again merely because the police sent in a charge-sheet against a person or merely because the Magistrate refused bail to an accused person, it would not be sufficient to hold that the person had committed the offence. It would only mean that the police had some evidence before them from which they thought that conviction was possible. But the statements before the police are not always reliable and it would not be proper to hold the persons guilty merely because the police sent a charge-sheet against them.

50. It may be noted that the management did not themselves record any statements. If they had done so, they could have seen whether the persons who made those statements were reliable or not and even if these persons later on may not have supported the prosecution case in the Criminal Court, the management would have been justified in accepting those statements and holding the accused persons guilty, and dismissing them. But in the absence of any statement being recorded by the management, they were not in a position to judge or decide whether a particular person or persons had taken part in the riot or not.

51. It was said that the management felt that the retention of the above persons involved risk of property being damaged and safety of the other workmen being doubtful and hence it was in the interest of the industry that they discharged these workmen. The management have however not placed any material before the Tribunal to show that their fears in this connection were justified or were *bona fide*. It has been said that two fires had taken place in the mines in that year. But this does not mean that the above persons were in any way responsible for it. The management have not produced any statements recorded by them at that time nor have they given any reasons for suspecting that the above persons were connected with those fires.

52. Neither Mr. Hill nor Mr. Dempster has said that either of them suspected that these persons or any of them had a hand in the fires. If they had really got suspicions against these persons, they should have given reasons for the suspicions. They should also have stated as to since when they had these suspicions and as to why no action was taken before. This fact (that no action was taken against any one are till after the riot) would show that the real reason for their discharge was their alleged complicity in the riot.

53. I may repeat that under the Standing Orders, the right of discharge of an employee on giving notice or pay in lieu of notice is ordinarily to be exercised in cases of retrenchment or in a case where the employee is found incompetent to do the work for which he was employed. Such was not the case here. These persons were sought to be discharged, because the management felt or suspected that they were guilty of taking part in the riot. In such a case, they should have been served with a charge-sheet and given an opportunity of defending themselves. They were denied this by the management resorting to the method of discharging them on giving pay in lieu of notice. This action was not *bona fide*, and was apparently done to avoid holding an inquiry. The discharge on giving notice or pay in lieu of notice in respect of these fourteen workmen is thus not proper.

54. The case of the workmen (c) and (e) is worse. Their names were struck off from the muster rolls on 10th March 1950, on the ground that they were

absent continuously for more than ten days. Admittedly these persons were in custody at the above time, and they could not have remained present at the mines, even if they wanted to do so. In other words, their absence was due to reasons beyond their control. As I mentioned above, Rule No. 9 of the Standing Orders of the company (Exhibit 76) defines ten cases of offences and clause (viii) thereof deals with absence without leave for more than ten consecutive days. It is an admitted fact that these persons were absent without leave for more than ten consecutive days; but as I pointed out above, their absence was due to reasons beyond their control. The management must have been knowing that these persons were in custody and that is why they were absent, and still without giving a charge-sheet or holding an enquiry, they struck off the names of these persons from the muster rolls. Even when the management was later approached in the matter, they refused to reconsider the case. It was not proper for the management to have struck off the names of these persons when they were absent due to reasons beyond their control or, at any rate, the management should have re-employed them as soon as they offered for duty after they were relased from custody.

55. On the whole, after carefully considering the cases of the sixteen workmen (a) to (e) and (h) to (r), I am satisfied that their discharge was not proper. They therefore are entitled to be reinstated. As all these persons were being prosecuted in a criminal case and were in custody in the beginning, I would order that the reinstatement should take effect from the date of acquittal of these respective persons. They should be paid their back wages and they would also be entitled to all other advantages as if they were on duty from the date of the acquittal up-to-date. The arrears of their wages etc. should be paid to them within one month from the date when the award becomes enforceable.

56. (f) *Feku Singh.*—So far as this workman is concerned, the Union alleged that at the time of the above riot, this workman was on duty at the Mosaboni retail store in front of which the riotous mob passed. He was asked to tender false evidence against some of the prominent union members as having been seen by him leading the mob. He did not agree to this, as he never saw any such member passing in front of him leading the mob. It is further stated that he had sufficient opportunities to be acquainted with the general public and responsible persons of the place and to the best of his knowledge, he could solemnly affirm that he never saw any one from them passing with the mob. This was apparently not liked by the company and they therefore made a note in his service card to the effect that he actually saw the persons but refused to give evidence against them. The Union then urged that almost immediately afterwards, he was submitted to series of charge-sheets on bogus and concocted reports and action was taken thereon and he was discharged. It was lastly alleged that he was not given any chance to explain his conduct. It was therefore contended that his discharge should be cancelled and he should be reinstated.

57. The management in their written statement have stated that Feku Singh was discharged on 22nd December 1950 on account of bad service record. He had been given an explanation sheet and his case had been fully considered. He was appointed on 16th March 1943 and prior to the Mosaboni riot of 3rd July 1949, he had been found on different occasions to be asleep on duty. It is true that he said that he did not know any one in the mob that passed on the night he was on duty *i.e.*, 3rd July, 1949, but this could not be accepted, as the mob passed right in front of him, unless he was asleep once more whilst on duty. After this, however, he was once given a good mark for catching a man taking away carbide. Thereafter he was caught asleep while on duty on two occasions. Finally while he was on duty at the mines stores, thieves broke in and removed some materials which could not have been done without making fairly a considerable noise and an enquiry was held and his explanation was found unsatisfactory and consequently he was discharged.

58. In this connection, we must firstly refer to the evidence of this workman Feku Singh Exhibit 18. Therein he has said that on the night of the riot, he was on duty at the retail store; and that the Inspector of Police and later on, the then Mines Superintendent questioned him as to what persons had passed by the road in front of the retail store for the purpose of the riot and he replied to both of them that he did not recognise any of the rioters who passed by the road as he was busy with his duties. He has then stated that the Mines Superintendent told him that he was given 48 hours time to think over to give the names of the rioters and he was again questioned after 48 hours and he again told him that he had not recognised any of the rioters but that he was prepared to name these persons whom the Mines Superintendent might tell him to name, and on this, he was asked to leave the office. On this point, he has admitted in cross-examination, that the road in front of the retail store was about 15 paces from the store and

that there were large lights near the store; but as he was on duty, he did not go near the road to see who the rioters were. He further said he did see that a large crowd of more than 1,000 persons passed by the store. It is admitted in the written statement of the Union that this workman was formerly working as a constable and was an old employee of the company and as such, he had sufficient opportunities to be acquainted with the general public and responsible persons of the place. The rioters passed within a distance of hardly 15 paces from where he was standing or sitting. There were large lights at the place. In these circumstances, it is impossible to believe that he could not have recognised any of the rioters. Probably he was not prepared to name anyone and the management were right in holding that he deliberately refused to tell the names of any of the rioters. It may then be noted that in the Union's written statement, it has been alleged that this workman was asked to tender false evidence against some of the prominent union members as having been seen by him leading the riotous mob and he did not agree to this. In his deposition, Feku Singh gives a different story. He says that he was questioned as to who the rioters were and he said that he did not recognise any of them. He was then given time to think over and to give the names of the rioters; but at the end of that period, he again said that he had not recognised any of the rioters but that he would name those persons whom the Mines Superintendent may tell him to name. In other words, he does not say that the Mines Superintendent or anyone else asked him to tender evidence against a particular person or persons but he says that he of his own accord told the Mines Superintendent that he was prepared to give such names as he may be asked to give; that is, he showed his willingness to give false names of these persons whom the Mines Superintendent may name, and the Mines Superintendent instead of accepting this offer, asked him to leave the office. I do not believe the allegation that Feku Singh was asked to give false names about the rioters. I hold that Feku Singh must have recognised at least some of the rioters; but for reasons best known to him, he was not prepared to disclose any names.

59. He was dismissed for an occurrence which took place on the night between 19th December, 1950 and 20th December, 1950, when he was admittedly on duty at the mine stores from 10 p.m. to 6 a.m. He says that he left his duty at 6 a.m. after handing over charge to his successor one Devi Singh and at that time, nothing out of order was pointed out to him. He was called in the office at 7-45 a.m. and was informed that a theft had taken place in the mine stores. He further said that nothing happened out of the way during the time he was on duty. He was then served with a charge-sheet and he gave a reply to it. The management then held an enquiry, and dismissed him from service. Exhibit 19 is the charge-sheet served on him together with his reply thereto. Incidentally, it may be noted that in the Union's written statement, an allegation has been made that this workman was not given any chance to explain his conduct; but admittedly the charge-sheet Exhibit 19 was served on him and he gave explanation to it. The charge-sheet mentions that on the above night, the back of the mine store was broken open and some motor tyres were removed, and he was asked to explain as to why he did not do anything to prevent the robbery and why he did not report about it. His explanation thereto was that at about 3 a.m. he had heard some sound on the back side of the mine store and so he went there and tried his best to know what had happened there but he did not see any man or any tyres there; he could not even see that the tin was open and how could he report if there was nothing to report. In his evidence, he now says that nothing out of the way had happened during the time he was on duty. This is contrary to the statement in the explanation Exhibit 19 that at about 3 a.m. he had heard some sound in the back side of the store and had gone there to know as to what had happened there. He has admitted that after he gave this explanation, the General Manager Mr. Dempster called both him and the Subedar in the office and questioned them and after this, he was dismissed. In this connection, I may also refer to the evidence of Mines Superintendent Mr. Hill, Exhibit 92 and the General Manager, Mr. Dempster Exhibit 94. Mr. Hill has stated that he had made personal enquiry in the matter. That night, a theft took place in the Mines Store. It was found that one corrugated iron sheet which formed the part of the wall of the store was torn away and bent up and theft committed through the gap. The tearing of the iron sheet and bending must have made considerable noise. Mr. Hill then says that he came to the conclusion that Feku Singh was either asleep or negligent and so he made a report to the General Manager. In this cross-examination, he stated that it was at about 6-20 a.m. that he first got the information about the theft, but he did not remember who gave the information. Thereupon he immediately went to the spot. Another watchman had taken over from Feku Singh at 6 a.m. The store is opened sometime before 6-30 a.m. but he did not make enquiries as to who had actually opened the store that morning. He has further

said that he did question the watchman who had taken charge from Feku Singh but he did not remember whether he recorded his statement in writing. Lastly he has said that nothing was actually lost; some tyres were removed from the stores, but were found scattered at some distance outside the store. Mr. Dempster, in his evidence, has stated that he held an enquiry in the matter and recorded the statements of Feku Singh and Subedar Ram Singh. Exhibit 95 contains the statements recorded by Mr. Dempster and also the order passed by him. In this statement also, Feku Singh has said that he had heard a noise at 3 a.m. and went to the back of the store but saw nothing. Mr. Dempster then passed an order that "it seems strange that Feku Singh saw nothing. The tyres taken by the thief were lying nearby. He (Feku Singh) has a poor record and has been caught asleep on duty on several occasions. Discharged". In cross-examination, Mr. Dempster could not definitely remember at what time he went to Mosaboni on 22nd December, 1950 on which date he recorded the above statements and passed the order. He admitted that he did not question anyone except Feku Singh and Subedar and it was on the basis of these statements and the general service record of Feku Singh that he ordered his dismissal.

60. It was argued that Feku Singh left duty at 6 a.m. after making over charge to his successor and at that time there was nothing abnormal and that the theft was discovered sometime later on. It was further argued that the watchman who took over charge from Feku Singh was not examined by Mr. Dempster. Lastly it was argued that it was strange that though tyres were removed from the store, they were left by the thieves not far from the store. It was suggested that this was a put up affair, with a view to discharging Feku Singh from Service.

61. The mere fact that the thieves did not actually take away the tyres is not very material; because sometimes when the thieves are disturbed while committing a theft, they think of flying away for safety and in doing so, they leave the stolen property behind. In the present case, Feku Singh's own statement shows that at 3 a.m., he had heard some noise and went at the back of the stores to make enquiries. Probably his going there may have disturbed the thieves, who must have fled away, leaving the stolen tyres there. This would not necessarily mean that the allegation of theft is not true.

62. It has been suggested that his eventual dismissal was due to his having incurred the displeasure of the management in not giving false evidence against certain union workmen. As I stated above, I do not believe that he was asked to give false evidence; on the contrary, he deliberately shirked his responsibility by not giving names of persons whom he had recognised. His service card shows that even prior to the riot of July 1949, he was found sleeping on duty on four occasions. On one occasion, he was absent from duty without leave and on another occasion, he overstayed his leave by 10 days. After the riot, he was given a good mark for catching one Govinda who was taking away carbide. He was then found asleep on duty on two occasions. On the second occasion, he at first said that he was not sleeping but later on changed the story and admitted to having been asleep. If the management wanted to get rid of him, because of his refusal to give false evidence in the rioting case, they had that opportunity when he was found asleep on two occasions. Feku Singh denies that he was found asleep on either of these two occasions after the riot but the entries in his service card show not only that he was found asleep while on duty but on both occasions he was suspended for four days. He admits this suspension. If he was wrongfully suspended, he would have taken some action in the matter. I am satisfied that he was found asleep on both these occasions while on duty.

63. It may then be remembered that he was given a good mark for catching one Govinda who was taking away carbide. In his evidence Feku Singh admits he had caught Govinda but he says that it was before the riot of July 1949. Apart from the entry in his service card which shows that he was given this good mark on 6th September 1949 for catching Govinda who was taking away carbide, we have Exhibit 74 which is the service card of Govinda, which shows that it was on 23rd August, 1949 that he was found taking away carbide and for this he was suspended for two days. This would mean that the incident occurred after the riot of July 1949 and Feku Singh has not spoken the truth when he says that it took place before the riot. The fact that the management gave him a good mark for this and noted it in his service card shows that they were not prejudiced against him for his refusal to tell the names of the rioters.

64. It was then urged that all statements were not recorded by the management. In particular, it was urged that the statements of the watchman who took charge from Feku Singh at 6 a.m. and the person who opened the store that morning ought to have been recorded. In my opinion, it is not always necessary to record all statements. It may be noted that Feku Singh left his duty at 6 a.m.

The theft was discovered before 6-20 a.m. because Mr. Hill has said that he got the information about the theft at 6-20 a.m. and went there. A corrugated iron sheet which formed part of the wall of the store was torn away and bent up and theft had been committed through the gap. Mr. Hill has stated that the tearing of the iron sheet and its bending must have made considerable noise. It is too much to say that someone did all this after 6 a.m. when Feku Singh left and before 6-15 or 6-20 when the theft was discovered and that too without anyone knowing about it. In this connection, it should be remembered that in his explanation to the charge-sheet and in his statement before the General Manager, Feku Singh had admitted that he had heard some noise at 3 a.m. and went at the back of the store to make enquiries. Of course, he said that he found nothing; but probably what must have happened is that he must have been asleep when the thief or thieves tore open the iron sheet causing great noise. This noise must have awoken him and he must have gone to make enquiries; this must have disturbed the thieves and they must have run away. Feku Singh must however have been too drowsy to find that the iron sheet had been bent and a gap caused in the wall or to discover the tyres lying there. This fact namely that the iron sheet was found torn and bent and it must have made considerable noise clear shows gross negligence on the part of Feku Singh. I do not believe that anyor must have done so after Feku Singh left at 6 a.m. The theft was discovere before 6-20 a.m. There was no sufficient time for anyone to do all this withou anyone knowing about it. I may also mention that if the management were prejudiced against this workman, there was nothing to have prevented them from taking action against him for a period of 1½ years, especially when during the interval, he was found asleep on duty on two occasions. In my opinion, there was evidence before the management from which they were justified in holding that this workman was grossly negligent in his duties and that he must have been asleep on the night between 19th December, 1950 and 20th December, 1950 while on duty. Looking to his past conduct, the order of dismissal was proper and justified. He cannot therefore be reinstated.

ISSUE NO. 4

***Revision** of existing wage structure for all workers and raising the minimum rate of an underground un-skilled worker to Rs. 2 per day and scheme for fitting the employees within the revised wage structure in terms of their length of service.*

65. This issue deals with the revision of the existing wage structure for all workmen. The Union's claim in this respect is contained at pages 8 to 10 of their written statement. Their contentions are that the existing wage structure framed by the 1949 adjudication award is very low. It is also contended that wages of the underground workers are out of proportion to the wages of the surface workers. They therefore claim that the basic wages for the underground workers should be raised by about 150 per cent. and those of the surface workers by 100 per cent. At this stage, I may mention that Mr. Sanyal who appeared for the Union told me at the time of arguments that he could not support this demand of the workmen as it was exaggerated but he pressed that there should be a reasonable increase in the existing wages of the workmen.

66. The management opposed this claim of the workmen. They firstly urged that no grounds have been made out as to why the wages fixed by the previous award should be raised. They then urged that the paying capacity of the company does not justify any increase in the wage structure and lastly they urged that the present wages are reasonable.

67. It is admitted fact that the present wage structure has been fixed by the 1949 adjudication award. The Union has indirectly admitted that there has been no material change of circumstances since the last award. This would appear from the last lines of page 8 of the written statement where they have stated that in the interest of industrial peace and taking into account the fact that the underground workers have all along failed to obtain a fair deal compared with the fellow workers on the surface and the normal needs of an average employee regarded as human being living in a civilised community, the award needs immediate revision, *although there may not have been any material change of circumstances since the last award was made.*. Thus the workmen have indirectly admitted that there has been no material change in the circumstances. There is also no evidence to show that there has been any such change. In view of this, the management contended that the wage structure fixed by the previous award should not be changed. In this connection, reliance was placed on the case between Army and Navy Stores Ltd. Bombay, and their workmen, published in 1951, L.L.J., Vol. II, page 31 and Ford Motor Co. of India Limited and their workmen, published in

1951, Vol. II, L.L.J. 231. In the first of these cases, an award was made on 27th January, 1948. Within 11 months thereof, fresh demands were made by the employees for reconsideration of the whole wage structure. The Labour Appellate Tribunal observed that the basic wages once fixed should stand for a reasonable period of time unless some substantial change intervened and that in that case no such change had occurred and hence no change was made in the wage structure fixed by the first award. In the second case, an award was made on 5th May, 1948 which came into operation on 17th May, 1948 and on the expiry of this award (that is on 16th May, 1949), the union served a fresh memorandum of demands, most of which were subject matter of the previous reference and were duly adjudicated upon. In this case also, the Tribunal held that where an award had been made between parties, it should be tried for a sufficiently long time before any changes could be effected in the terms thereof.

68. Mr. Sen who appeared for the management relied on these two cases and urged that as there had been no material change in the circumstances, the wage structure fixed by the previous award should not be altered at this stage. I may however point out that in both the above cases the workmen asked for a revision of the wage structure fixed by an award just a year after the award was made. In the present case, the award of 1949 adjudication was made on 15th October, 1949. The present disputes arose in December 1952 and were referred to this Tribunal in May 1953. That means that the award had been in force for over 3½ years before the order of Reference was made and now, it is in existence for over four years. It could not therefore be said that sufficient trial has not been given to it. In my opinion, the above cases would not be applicable to the present case because a sufficient time has elapsed after the award was passed. It would therefore be open to me to change the existing wage structure, if I find it necessary to do so.

69. It was then contended that the financial condition of the management was not good and that it would not justify any increase in the wage structure. As observed by my learned predecessor in the 1949 award, "payment of any amount more than what is being paid is bound to be felt by every employer". It is human nature that no one would like to pay more if he can avoid it. At the time of 1949 adjudication, the management had also contended that the company was passing through a financial strain. The same contention has been made in the written statement in the present case also. On the other hand, I find that the Chairman of the Company in his address at the Annual Meeting (published in the Directors' Report for the year 1951) has struck a very optimistic note. The report is produced at Exhibit 90 and the Chairman's address therein is at page 8 and 9. He has observed that, "the company has gone from strength to strength during these years". It was also observed that that year had proved to be a record year in the company's history and that it had an efficient, well organised, and a financially sound unit. It has also been further observed that "in considering the question of dividend, the directors' have taken into account the necessity to conserve funds for the development of the company's activities and for financing the present high stocks of manufactured products". In the last paragraph, the Chairman has mentioned that "the year under review despite increased operative cost and lower despatches had shown a result which would be considered very satisfactory but that the increase in unsold stocks however gives cause for concern and the recession of the world metal market since the close of the year has not helped the position. Sales and prices have not been as good as in 1951 but there are signs that the demand is again improving". It may be noted that this address must have been written in about August 1952 and was meant to be submitted to the members at the meeting to be held on 8th October, 1952.

70. I may also refer to the well known case of Buckingham and Carnatic Mills Limited, published in 1951, Vol. II, L.L.J. page 314. The relevant discussion is made from para. 42 onwards. It has been observed that the Fair Wages Committee in dealing with the question of wages came to the conclusion that the wages of an industrial worker must be such as would enable him to have not merely the means for bare subsistence of life but also for the preservation of his efficiency as a worker and for this purpose he must have the means to provide for some measure of education, medical requirements and amenities. This is the minimum which he must have irrespective of the capacity of the industry or his employer to pay. Thus the floor level of wages is to be determined keeping in view these considerations. The upper limit of wages must be set by what may be called the capacity of the industry to pay not of a particular unit thereof, but of the industry cum region basis.

71. Mr. Sanyal appearing on behalf of the workmen stressed that the workmen in this case were not getting the minimum wages and that he wanted a revision of the minimum wages so that the workmen could get their minimum living wages.

72. The minimum wages that an unskilled workman gets is 0-12-0 per day in the case of surface workers and 0-13-0 per day in the case of underground workers. In addition to this, they get dearness allowance and other concessions. Taking a month to be equal to 26 working days, the basic wages that an unskilled surface worker would get would be Rs. 19-8-0 and an unskilled underground worker would get Rs. 21-2-0. In addition, they would get Rs. 20 as dearness allowance, Rs. 8-2-0 as grain concessions and Rs. 3 would be the monetary value of cheap grain facilities. They would also get an attendance bonus of Rs. 1-8-0 and Rs. 1-10-0 respectively. In other words, the total earnings of an unskilled labourer would be Rs. 52-2-0 in the case of surface workers and Rs. 53-14-0 in the case of underground workers. In addition to this, they get free medical treatment, and free primary education for their children. They also would get profits sharing bonus, which, for the year 1951, comes to nine weeks' wages. As against this, an unskilled labourer working in the collieries gets basic wages of 0-12-0 per day plus Rs. 1-2-0 dearness allowance. In addition, he gets a quarter seer of rice free per day and a cash attendance allowance ranging from 0-3-6 to 0-6-6 per day. In other words, his total earnings come to about Rs. 2-4-0 per day making a monthly income of Rs. 58. In addition, he gets four months bonus every year. He however does not get any profit sharing bonus. In most of the collieries, medical facilities are not so good as the facilities given by the present company. The collieries also do not provide for any educational facilities. Comparing the wages which the workers in the coalfields get, it could not be said that the wages earned by workmen in the present company are disproportionately low.

73. Mr. Sanyal on behalf of the union referred me to the Central Pay Commission Report at pages 42 and 309. At page 42, the Commission has given the scales of pay for clerical grades. At page 309, the Commission has given the scales of pay that should be given to the workers working in the Public Works Department under the heading, Works, Mines and Power Department. The unskilled labourers were proposed to be given scales of pay from Rs. 30 to 35. On the other hand, Mr. Sen on behalf of the management referred me to page 32 and 33 of the Central Pay Commission wherein in para. 50 they have mentioned that Rs. 50 and Rs. 90 seem to represent reasonable living wages for a working class family and a middle class family respectively at a cost of living index at about 260. I have already pointed out above that a labourer working in this company gets a minimum wage of more than Rs. 50 per month and it could not be said that the income is disproportionately low.

74. I may mention here that it was argued before me that the living index in this area in 1951 was about 350, and on this basis the minimum living wages of a workman should be Rs. 99 per month. Unfortunately there is no evidence about the cost of living index prevailing in the Mosaboni area. Mr. Sanyal drew my attention to the fact that the adjudicator in 1947 award had observed that the adjudicator of the 1944 award was of the opinion that the cost of living index at Mosaboni and Moubhandar was practically the same as the living index at Jamshedpur and saw no reason to differ from his opinion. He based this opinion on a note prepared by the Sub-Divisional Officer of Jamshedpur which was to the effect that except in the case of rice and firewood, prices in the interior of the sub-division might exceed the prices fixed in the list by 10 per cent. and in the market by the side of the railway line might exceed by 5 per cent. This note or a copy thereof has not been produced before me. It would not be proper to say that the present cost of living in Mosaboni is the same as in Jamshedpur merely because in 1944, the Sub-Divisional Officer had prepared a note showing the prices prevailing at these places which showed that they were almost the same. Prices may vary from time to time and from place to place. At one place, the prices may rise; while at another, they may go down. In the circumstances, I do not think that I would be justified in holding that the present cost of living index in Mosaboni is the same as that of Jamshedpur. It would mean that there is no evidence to show what the cost of living in Mosaboni is. That being so, no all round increase can be allowed on the ground of increase in the cost of living.

75. One of the contentions raised before me at the time of arguments was that the case of the different categories of workmen require revision, as they were not in proportion to the efficiency and skill required for the persons holding those positions. The Union have produced a list with their letter dated 9th September, 1953 showing the scales of pay in force at present. The management

have by their letter dated 24th October, 1953, pointed out errors in respect of six items; but on looking at the list of the Union and the errors pointed out, it appears that there are no errors in respect of three of these items. There are some slight errors in the remaining three items. When this issue was again heard by me, Mr. N. C. Mukherji on behalf of the Union stated that several categories of the employees were not getting the pay they should get, regard being had to the nature of work. He had however to concede that there was no material before this Tribunal from which the Tribunal could decide as to which of the categories of employees required a revision in their scales, because of the nature of their work. I may also point out that this plea has not been raised in the written statement of the Union. Mr. Mukherji also stated that the best course would be for the management and the Union to meet together and discuss these points. He also agreed that the Union would approach the management in this connection. Mr. Hill on behalf of the management also conceded that they would agree to discuss the points with the Union and try to come to an agreement. In the absence of any materials before the Tribunal, it would not be possible for me to revise the scales of any of the categories of the workmen on the ground that the nature of work of particular categories required a higher pay than was being paid to them.

76. There is, however, one point, on which I feel that the present scales of pay are not proper and it is in respect of the underground workmen. As I pointed out above, the scale of an unskilled surface worker is 0-12-0—0-1-0—0-15-0. The scale of an underground unskilled worker is 0-13-0—0-1-0—1-0-0. In other words, the underground worker gets only 0-1-0 more than the surface worker. Looking to the difficult conditions in which the underground worker has to work, this difference is in my opinion inadequate. I myself went underground and felt that working underground in this mine was more difficult than the work in a coalmine. Actually it appears that in the old days the surface worker was getting 0-6-0 per day while the underground worker was getting 0-12-0 per day. The rate of the surface workers has been gradually increased from 0-6-0 to 0-12-0; while the rate of an underground worker has become only 0-13-0. In my opinion, this is not proper.

77. It was contended on behalf of the management that an underground worker has greater chances of promotion than a surface worker. After all, promotion depends on various factors. One is that there should be a vacancy in the upper grade. The other is that the workman should be found fit for that work. Hence it may be that all the underground workers may not get promotions to the higher jobs and sometimes the promotion may be delayed. Hence merely because there may be some more chances for promotion for the underground worker, it would not be proper to start them with adequate pay.

78. The question then is as to what increase I should allow to the underground workers and to which of them. As I mentioned above, the underground workers have to work under very difficult circumstances and it is but fair and just to them that they should be adequately compensated for the same. In my opinion, the difference of 0-1-0 per day between underground and surface worker is not adequate, but the difference should be 0-2-0; that is, in my opinion, the minimum pay that an underground worker should get should be 0-14-0 per day. Their present grade is 0-13-0—0-1-0—1-0-0. I would revise it to 0-14-0—0-1-0—1-1-0.

79. Then there are other categories of underground workers with different grades. For instance, there are some workers whose present grades start at 0-14-0 and end at 1-1-0. If the pay of the lower grade is increased, it would not be proper to keep the upper grades as they are, because, that would make the two grades identical. I have gone through the different grades mentioned in the above letter. In my opinion, the pay of daily rated workers whose present wages are Rs. 1-8-0 or less should be increased by 0-1-0 per day; but there should not be any increase in the wages of persons drawing Rs. 1-9-0 per day or more. This would be applicable to both the minimum and maximum pays in the different scales. If the minimum or maximum is Rs. 1-9-0 or more, it should not be disturbed; but if it is less than Rs. 1-9-0, it should be increased by 0-1-0.

80. The above list produced by the Union with their letter dated 9th September, 1953 and consolidated list 'A' dated 5th September, 1953 prepared by the management show that there are two categories of monthly rated workers. The minimum salary of one of these categories is Rs. 90 and of the other Rs. 100. In my opinion, they do not require revision.

81. On the basis of the above conclusions, the new scales of the different categories of workers of the underground department would be as shown in the schedule annexed to this award. I would also direct that they should come in

force from the date of this Reference. I would further direct that if any category is left out, the pay thereof should be adjusted on the above basis.

82. There would be no difficulty in fitting in the employees in the revised wage structure, because I have given an overall increase of 0-1-0 in the case of particular workmen. All these workmen should be given an increment of 0-1-0 over their present pay from the date of the reference and they would earn their next increment a year thereafter. In the case of workmen who are continuing in the service, the arrears of wages that they would be entitled to as a result of the revision should be paid to them within a month of the award becoming enforceable. In the case of those workmen who are now no longer in the service, i.e. those who have left, retired etc. after the date of the reference, they should be paid the difference in their wages provided they make an application to the management within six months of this award becoming enforceable.

ISSUE NO. 5

Alleged Victimisation of the following Workmen:—

(a) Shri S. C. Nandi.
(b) „ S. P. Das.
(c) „ G. P. Banerjee.
(d) „ H. K. Das.
(e) „ N. Ghosh.
(f) „ B. Lohar.
(g) „ Kali Charan Patnaik.
(h) „ Rajani K. Das.
(i) „ Lakhindar Patnaik.
(j) „ Govinda.
(k) „ Bibhuti K. Khawas.
(l) „ Kirandhar Pandey.
(m) „ Francis.
(n) „ N. N. Naik.
(o) „ A. Rahman.

83. This issue deals with the alleged victimisation of 15 workmen mentioned herein. Out of these workmen, the cases of (i) Lakhindar Patnaik, (j) Govinda, (k) Bibhuti K. Khawas, (n) N. N. Naik and (o) A. Rahman, were given up by the Union at the time of the hearing (*Vide* Exhibit 29) and no evidence has been led about them. I shall therefore proceed to consider the cases of the other workmen one by one.

84. (a) *S. C. Nandi.*—This workman was working as a Compounder in 1948. At that time, one J. M. Roy was head Compounder: he died somewhere in October-November 1948. Thereupon Mr. Nandi was appointed to act as Head Compounder on probation for six months from 1st January, 1949. In about October 1949, the post of Head Compounder was abolished and a new post of residential compounder was created with less pay than the pay of Head Compounder. The workmen's case is that the duties that Mr. Nandi is performing are the same which were being performed by the Head Compounder and he should therefore be appointed and paid as Head Compounder. The company's allegations in the written statement are that the probationary period of six months of Mr. Nandi was extended by four months on 29th June, 1949, as the hospital authorities were not satisfied that he could perform these duties in a satisfactory manner. It is further alleged that on 1st October, 1949, he was found unsuitable for promotion to the post of Head Compounder and as none of the other compounders were also suitable for that post, the duties of Head Compounder was split up between two persons and Mr. Nandi was appointed to a new post of a residential compounder carrying a higher salary than the salary of an ordinary compounder. It is alleged that his pay was increased to Rs. 90 from Rs. 75. It may be noted that the pay of Head Compounder as fixed by 1949 award is Rs. 115—10—155 and thus Mr. Nandi was given less pay as residential compounder than what he would have got as Head Compounder.

85. Mr. Nandi was examined at Exhibit 25 and he has stated that his duties as a residential compounder are the same which he was performing as a Head Compounder. It may be noted that there was no post of residential compounder before 1949. The company has thus abolished the post of a Head Compounder and created a new post, designating it as residential compounder, though in effect the residential compounder is given the same duties which were performed by the Head Compounder. Virtually therefore it means that the company is trying to go behind the 1949 award by changing the designation of a post. This is an unfair labour practice. It is true that in the written statement of the company, it is alleged that Mr. Nandi was not found fit for the post of Head Compounder

and also that the post of Head Compounder had been split up between two persons. There is however no evidence in support of these allegations. Mr. Dempster, General Manager, (Exhibit 94) has not spoken a word about the Head Compounder's post. Mr. Hill Mines Superintendent (Exhibit 92) has said that he has no personal knowledge regarding Nandi's case. All that he has said is that to the best of his belief, it is not true that S. C. Nandi's appointment was made as a residential compounder to avoid higher payment to him as a Head Compounder. In view of the fact that he has no personal knowledge in the matter, this opinion of his has little value. Mr. Nandi's service card has been produced at Exhibit 26. There is a pencil entry made therein that he was not satisfactory as a Head Compounder but the same entry has not been proved. Mr. Hill has definitely stated that this entry is not in the handwriting of the then Medical Officer Mr. Hutchinson.

86. There is no evidence to contradict the evidence of Mr. Nandi that as a residential compounder he has to perform the same duties which are performed by the Head Compounder. Mr. Hill when questioned says that he does not know whether there is any record to show whether the duties of Head Compounder were split up between the two persons as alleged in the written statement. He could not say whether the new post of a residential compounder was created by the Chief Medical Officer or by the Superintendent or the General Manager nor he could say whether if the post was created by the Chief Medical Officer, he had consulted the Mines Superintendent or the General Manager before creating the post. He could not say whether there were any records to show about the abolition of the post of Head Compounder or the creation of a post of residential compounder. He did not know whether there was any record to show as to when the post of Head Compounder was abolished.

87. In view of this state of the evidence, it must be held that Mr. Nandi is asked to do the work of a Head Compounder under a different designation and the only inference that we can draw is that this must have been done to avoid paying him the pay fixed by 1949 award for Head Compounder. This is not fair. A person who is doing the work of a Head Compounder must get the pay of that post and the management cannot pay him less, by changing the designation of that post. I would therefore order that Mr. Nandi should be designated as a Head Compounder with effect from 1st July, 1949 and paid according to the grade fixed by 1949 award. His past salary also should be calculated on this basis; and he should be paid arrears of pay within a month of this award becoming enforceable. His future pay must also be fixed on this basis.

88. (b) *S. P. Das.*—He was working as Sanitary Supervisor. One Mohammed Ismail was Sanitary Overseer. He went on leave in July 1950 and Mr. Das says that at that time he was doing the work of a Sanitary Overseer. In September 1950 Mohammed Ismail was declared medically unfit and discharged from service in September 1950. Mr. Das alleges that he was looking after the work of a Sanitary Overseer till April 1951 and was given an acting allowance of Rs. 5 per month. From 1-5-51 the management appointed another Sanitary Supervisor Mr. Moitra and stopped the allowance of Mr. Das. He contends that he should have been confirmed as Sanitary Overseer and his salary fixed as such. The management's case is that one Mr. Behara was appointed as Assistant Health Officer and thereafter the work and responsibility of the Sanitary Overseer Mr. Mohammed Ismail was considerably reduced. Further Mohammed Ismail's failing health could not allow him to efficiently perform the duties of a Sanitary Overseer and he was therefore doing the same duties as those of a Sanitary Supervisor but because of his long services, he was allowed to retain the designation of an Overseer. When Mohammad Ismail went on leave, S. P. Das had to work over a larger area and was therefore given a special allowance. When another supervisor was appointed, Mr. Das had to do his original work which he was doing as a Sanitary Supervisor and his acting allowance was therefore stopped. The management urged that they had abolished the post of Sanitary Overseer because the important duties of that post were now being performed by the Assistant Health Officer. Mr. Das has been examined at Exhibit 21. The management have examined the present Assistant Health Officer Mr. Behara at Exhibit 96.

89. Before proceeding further, I may mention that Mr. Sen at the time of arguments contended that Mr. Das was not a workman as defined by the Industrial Disputes Act and hence there can be no industrial dispute regarding him. He contended that the evidence of Mr. Das showed that his duties were merely supervisory and that he had not to do any manual or clerical work. This contention cannot be accepted. It may be noted that this contention was not raised at any time before arguments. If the point has been specifically raised in the written statement, the workmen could have led evidence to show that Mr. Das had to do clerical or manual work. It is true that his duties enumerated by him

in his deposition show that they are supervisory duties. This however does not necessarily mean that he has no clerical or manual work to do. As I mentioned above, this point was not raised in the written statement and his deposition was not given from that point of view. His statement about his duties should not be taken to be exhaustive or to mean that he had no other duties or that his duties were only supervisory. I therefore do not accept the contention that Mr. Das is not a workman.

90. Coming to the merits of his case, I think that there is no substance in his grievance. It appears that formerly there was one Assistant Health Officer (Mr. Alexander) a Sanitary Overseer (Mr. Mohammed Ismail), and a Sanitary Supervisor (Mr. S. P. Das). According to the evidence of Mr. Das himself, Mr. Alexander was working both as Assistant Health Officer and he was also working in the clinical laboratory at the Mosaboni Mines hospital. The present position is that Mr. Alexander is doing only clinical work. The present Assistant Health Officer Mr. Behara does only Sanitary work and no other work. Naturally he must have been given some more work in the Sanitary department than what M Alexander was doing and I believe Mr. Behara and the case of the management that important duties which were formerly performed by the Sanitary Overseer are now being performed by Mr. Behara. There are now two Sanitary Supervisors Mr. Das and Mr. Moitra, probably because the work of Sanitary Supervisor has increased and some of the less important work of the sanitary overseer has been divided among them. I do not believe Mr. Das when he says that he is doing all work of a Sanitary Overseer. It is not natural that the management should allow Mr. Behara to work only as an Assistant Health Officer when his predecess or was working both as Assistant Health Officer and as clinical assistant in the laboratory. I believe that the present Assistant Health Officer is doing the work of a sanitary overseer also. In view of this, the management were justified in abolishing that post and not appointing Mr. Das or anyone else to that post. It is not a case where Mr. Das is doing the work of a Sanitary Overseer under another designation. But the work of a Sanitary Overseer is done by a higher paid officer. I hold there is no victimisation of Mr. S. P. Das and he is not entitled to any relief.

91. (c) *G. P. Banerjee.*—The workman's case about him is that he has been superseded by one Mr. S. V. Ramnath and it is urged that Banerjee should get more pay than Ramnath from the day of the alleged supersession. In the written statement it is contended that Mr. Banerjee was a store keeper and had put in more than 25 years service, and that Ramnath became store-keeper in 1943 on a salary of Rs. 60 per month when Banerjee was getting a salary of Rs. 125. It is further alleged that in 1950 Mr. Banerjee was getting Rs. 150 per month while Ramnath was given the Senior scale of Rs. 110 per month. It is said that in 1949 Ramnath was getting Rs. 120 and Banerjee Rs. 150 but in that year Banerjee was superseded by Ramnath by increasing the salary of Ramnath to Rs. 180 as against Banerjee being given Rs. 170. It is urged that this was a case of unfair labour practice. The company contends that the alleged grievances of Mr. Banerjee date back from 1943 after which there had been three adjudications in 1944, 1947 and 1949 respectively and that his case was never brought up before this. On merits, it is contended that Mr. Banerjee has been treated extremely kindly because of his long service. He has now become old; but even 9 or 10 years ago, it became obvious that he could not cope with his job at the mines store. He was not able to give satisfaction in his work and his handwriting was scarcely legible. Accordingly, Mr. Ramnath was to be in charge of the stores, but Mr. Banerjee was retained in charge of the steel yard of the mine and some other minor jobs were given to him. Even these duties he could not perform properly and the charge of steel yard had to be taken away from him. He is now getting Rs. 170 which is Rs. 15 more than the maximum scale for a store keeper. It is not correct to say that he was superseded by Ramnath in 1949 because Ramnath was put in charge of the mine store in 1943.

92. Mr. Banerjee has been examined at Exhibit 23 and his evidence clearly shows that the contentions of the management are true. He says that he was appointed as a store-keeper in 1927 and since then he has been working all along as a store-keeper. He says that his present pay is Rs. 170. The pay of a store-keeper as laid down in 1949 award is Rs. 115—10—155. In other words, the maximum of pay of a store-keeper would be Rs. 155 as against which Mr. Banerjee is getting Rs. 170. This would mean that he is getting more pay than the maximum of his scale. His grievance however is that the present pay of one Ramnath, who was appointed as a store-keeper in 1943 at Rs. 60 per month when Banerjee was drawing Rs. 120, is more than Rs. 200 as against Banerjee's pay of Rs. 170. This contention cannot be accepted.

93. As I said above, Mr. Banerjee is drawing more than the maximum of the scale. It does appear that Mr. Ramnath joined service subsequent to Banerjee, and that he is now drawing more pay than Mr. Banerjee; but this by itself would not mean that Mr. Banerjee has been victimised. The promotion of an employee to a higher post is in the discretion of the management, depending on the ability of the workman concerned. Unless it is shown that there has been victimisation or unfair labour practice, a workman could not make a grievance of someone else being appointed to a higher post. Mr. Banerjee alleged no reason why Ramnath should have superseded him or why the management showed special favour to Ramnath. Apart from this, I am satisfied that the work of Mr. Banerjee has not been found quite satisfactory. Mr. Banerjee admits that till 1943, there was only one store-keeper. Then a Chief Store Keeper and also a second Store-Keeper were appointed. On 12th June, 1943, a letter was addressed by the Chief Accountant to Mr. Banerjee and a copy of this letter is produced at Exhibit 24. That letter shows that Mr. Banerjee was put in charge of (a) steel yard (b) explosives (c) candles and carbides, while the store itself was to be in charge of Mr. Ramnath. Both Mr. Banerjee and Ramnath were to be under the control of the Chief Store Keeper. The letter further says that as the stores were in the course of being changed over to the new building, Ramnath would require the assistance of Mr. Banerjee for a considerable time and Mr. Banerjee was therefore to do everything possible to help Mr. Ramnath in taking over his new work and until such time as he was in a position to undertake sole responsibility on his own account. Mr. Banerjee has admitted that in 1949 the charge of the steel yard was taken away from him. He however said that he was at that time given the charge of cement bags and furniture of the bungalow. Later on, he admitted that he was in charge of the bungalow furniture from 1937 and that he was in charge of the cement bags even prior to 1943. He further admitted that he was not put in charge of any additional item of stores after 1943, but on the other hand, the charge of the steel yard was taken away from him in about 1949. This would show that he must not have been found fit and efficient, with the result that his duties were greatly decreased and he was relieved of several charges. In the circumstances, he cannot make a grievance that Mr. Ramnath should be given more pay than what he is getting. If Ramnath by his efficient work has satisfied the employers and they promote him to a special post or give him a special pay, Mr. Banerjee whose work is not quite satisfactory cannot make a grievance of it. It may then be noted that it was in 1943 that the charge of the main store was taken away from Mr. Banerjee and given over to Mr. Ramnath. In 1949 the charge of steel yard was taken away from him. His alleged supersession therefore took place in 1943 or thereabouts and no dispute was raised about it in the earlier adjudications. In any case, looking to the facts of the case. I think that Mr. Banerjee can have no grievance and he is not entitled to claim more pay than what he is getting.

94. (d) *H. K. Das,* (e) *N. Ghosh, and* (f) *B. Lohar.*—The cases of these three clerks should be considered together. All of them urge that they should have been promoted to a senior clerk's post retrospectively from the date of the publication of the 1949 award. It is not in dispute that the 1947 award laid down that there should be two grades of clerks one junior scale and the other the senior scale; and that 10 per cent of the clerks should be in the senior scale. It was contended by Mr. Sanyal on behalf of the workmen that the management have not appointed 10 per cent of the clerks to the senior scale and that these three workmen should be appointed to that scale. At the outset, it may be noted that the question referred to me is not as to whether the 1947 or 1949 awards have been implemented or not, but whether there has been a victimisation of these three workmen. The management say that they have appointed 10 per cent of the clerks to the senior scale and the question that was argued before me was that the interpretation of the awards made by the management is not correct. The question whether the interpretation is correct or not would be a question that I would have been required to consider if the question referred to me was whether the awards have been implemented or not. But unless it is shown that the interpretation is not *bona fide,* it could not be said that there was victimisation (even if the interpretation is not correct), I may say that there is nothing on record to show that the interpretation of the awards made by the management is not *bona fide.*

95. According to the management, Exhibit 86 is a list of the senior clerks as they stood on 31st March, 1953, and Messrs. J. C. Nandi, S. N. Dan, M. N. Sinha, M. Marrie, L. M. Patnaik and B. Namata are already holding the senior clerks' posts. The management further mention that in addition to this, S. V. Ramnath and G. P. Banerjee were also to be considered to be holding the posts of senior clerks. It was argued by Mr. Sanyal on behalf of the workmen that it was not proper to include L. N. Patnaik and B. Namata who are working as timber supervisor and retail store-keeper respectively in the senior scale. It was urged that

Mr. Patnaik was appointed as a General Supervisor and he was never a clerk and could not therefore be promoted to the senior scale. It was further argued that store-keepers post was given a separate category in 1949 award and that neither it could be a clerical post nor could it be taken as a senior scale post. It was further urged that the post of a Head Clerk of the hospital could not be taken as senior clerk's post and there were at least three vacancies in the senior scale and the claims of the three above clerks should be considered to the appointment of these posts.

96. As I said above, this issue deals with the alleged victimisation and not the non-implementation of the award. Victimisation would require some over-act on the part of the management which would have the effect of depriving a workman of his legitimate dues. It may be noted that when the senior post was created by the 1947 award, it was mentioned firstly that 10 per cent of the total number of clerks shall be in senior posts and that these posts of senior clerks should be filled up by selection. In other words, no clerk could claim as a matter of right that he should be appointed to the senior scale post. A clerk could not go to the senior scale merely by seniority; but he would be required to show efficiency and ability. It could not therefore be said that these three persons were victimised because they were not appointed to the senior scale. The management have not considered their claims; as, according to them, there is no vacancy.

97. It may be noted that there are in all 65 clerical posts as shown in the lists Exhibit 86 and 111. That would mean that 6 or 7 posts should be of the senior scale. Exhibit 86 shows that at present there are in all 8 persons holding the senior scale posts. It has however been contended that the posts of Timber Supervisor, retail store-keeper and the hospital Head Clerk could not be considered to be the senior scale of posts. A Time-Keeper is admittedly a clerical post and the Head Time-Keeper's post would therefore be a senior Clerk's post. Regarding the post of Timber Supervisor, it has been pointed out in Exhibit 86 that 80 per cent. of work done by Mr. L. M. Patnaik is clerical, as he does all accounting and prepares and submits all bills for timber supplies.

98. So far as the post of store keepers are concerned, it has been argued that these posts are not really of senior clerks. In this connection, however, the written statement of the Union at page 12 bottom may be referred to, where it has been mentioned that:

> "as a result of 1949 award, store-keepers who were formerly considered as Senior Clerks had a separate grade of their own. Vacancies thus created were never filled in."

This statement of the Union clearly shows that the Store-Keepers were senior clerks that is, holders of senior scales but the written statement contends that because in 1949 award, store-keepers were mentioned separately when prescribing the scales of pay, it would mean that they ceased to be senior clerks and the vacancies thus created were never filled in. I am unable to agree with this interpretation. Excepting the fact that in the Appendix to the 1949 award where the scales of Senior clerks and store-keepers are separately mentioned, there is nothing to show that the post of Store Keeper ceased to be a senior clerk's post. The award does not support the contention that the post of Store-keepers were taken away out of senior clerk's posts. Reading the award of 1949 as a whole, it does not appear that the union had even claimed that there should be a separate grade or cadre for Store-Keepers or that the store-keepers were to be excluded from the senior scale of pay. Mentioning the Store-keepers' post separately from Senior Clerk's post in the appendix fixing the scales of pay would be redundant or would be an over-sight; but would not have the effect of taking away the store-keeper's post from Senior Clerk's post. In any case, if the management interpreted the award as meaning that the posts of store-keepers were not taken away from the senior scale, it could not be said that their interpretation was not *bona fide*.

99. Regarding the post of the Head Clerk of the hospital, it is certainly a clerical post. There is no post of a Head Clerk created either by 1947 or 1949 award and the holder of that post would certainly have to be considered as holding one of the 10 per cent. of the senior scale posts.

100. Thus *prima facie*, I hold that at present eight persons hold senior scale posts as against 6 or 7 which would make 10 per cent. of the total posts of 65. Even if the Timber Supervisor Mr. L. M. Patnaik is excluded from the senior post, even then there would be seven persons holding senior scale posts and there is thus no vacancy in the senior scale posts.

101. I may then refer to the evidence of Mr. Hill, Mines Superintendent, Exhibit 92. He has specifically stated that according to his opinion, there is no vacancy in the senior scale at present. There is no reason to suspect his *bona fides*. No allegation has been made that the interpretation of the awards by Mr. Hill or the management is in order to victimise either of the above three clerks. I may repeat that the issue is not as to whether the previous awards have been implemented but whether there has been victimisation. In this connection, I may also point out that according to the gradation list Exhibit 111, there are several clerks senior to Mr. H. K. Das and Mr. N. Ghosh and even if there be a vacancy in the senior scale, they cannot claim as a matter of right that they should be appointed thereto. The claims of clerks who are senior to them would have to be considered and only if those clerks are not found fit to be promoted to the senior scale would the case of these clerks have to be considered and even then they can be appointed to the senior scale only if they are found fit. As it is, I hold that there is no victimisation of any of these clerks and that *prima facie* there is no vacancy in the senior scale. These clerks are not therefore entitled to claim to be promoted to the senior scale.

102. Before proceeding to the claim of the next workman, I may mention that in the written statement of the workmen, a claim has been made that Mr. H. K. Das should have been given acting allowance for the period he acted as Head Time Keeper during the years 1940-49. This claim was not however pressed at the time of hearing. As I mentioned above, there had been adjudications in 1947 and 1949; but the above claim was not put forth at any time. As a matter of fact, at the time of 1949 adjudication, some alleged grievance of Mr. H. K. Das was put forth before the Tribunal (see Issue 19, para. 22, page 2229) but even then this claim was not put forth and it cannot be allowed to be agitated now.

103. (*g*) *K. C. Patnaik.*—His claim is that he had been working as a tools store-keeper for several years but was not given any more pay or allowance during the time he worked as such. Admittedly he was a round checker in the underground department. He says that he was working as a tools stores-keeper though the duties of a round checker did not include the issue of tools. The 1949 award shows that there is no post of tools store-keeper in the underground department though there is such a post in the engineering department. In his deposition, Exhibit 27, Mr. Patnaik has to admit this. He has also to admit that the tools in his charge were tools which are required underground and that they were simple tools. He further admits that there was (another) store-keeper for the tools required by the Engineering Department. He then admits that a *mucker* is doing the work of issuing tools underground in the Dobani Mines. He further admits that there is no post of tools store-keeper underground in the Mosaboni mines and that a plat checker issues stores required by the underground staff in that mine. In view of these statements, it would be clear that there is no post of tools store-keeper in the underground department. The issuing of tools underground is done by any ordinary worker because those tools are simple tools. A special post of tools store-keeper exists in the Engineering Department, because tools there are many and of various types and the work of issuing of those tools must be done by a responsible man. There is no such post in the underground department. Mr. Patnaik who is working in this (underground) department cannot therefore claim the pay of tools store-keeper of the Engineering Department. His claim must therefore be rejected.

104. (*h*) *Rajani K. Das.*—The Union's case is that though this workman is senior, the management have taken up one Chokalingam as an underground trainee. They also urge that the post of underground trainee was newly created to show favour to a pet man of the company. The management in their written statement have admitted that R. K. Das is senior in service to Chokalingam but contended that when Chokalingam applied for promotion, he was chosen by the Mines Superintendent for the post of a trainee as being the right type of man to be trained. It was also been stated in the written statement that the Mines Superintendent has had long years of experience in selecting the right man for the right job and the management should be allowed the right to make their own choice according to their discretion of the man best fitted for such jobs. I agree that the management are entitled to select a proper man for the proper job; but in doing so, they must take into consideration the claims of all the employees. They cannot ignore the claims of a senior man and appoint a junior man to a special post. It is true that the post of an underground trainee has been newly created; but that would not entitle the management to appoint a junior to that post, without considering the claims of others senior to him. Admittedly, Mr. R. K. Das is senior to Mr. Chokalingam. The Mines Superintendent Mr. Hill at Exhibit 92 has stated in his examination in chief that he had come across Mr. Chokalingam several times and was impressed favourably with him and that is why when he thought of starting a new scheme for training some persons for supervisory job, he selected him as a trainee.

He also inquired about his work from his senior officers and had got good reports about the same. This would mean that Chokalingam was a fit person for selection as a trainee. That however by itself would not mean that the management was justified in selecting him without considering the claim of R. K. Das. In cross-examination Mr. Hill admitted that he did not consider the claim or merits of any other Jumper Checker before selecting Mr. Chokalingam as an underground trainee. He however added that he had asked the different heads of departments whether they could recommend anyone for appointment to this post. No one recommended anyone else. He admits that it was a casual enquiry made by him. He could not say as to when he made the enquiries because, as he says, he did not attach any importance to this job. It may however be noted that the new job was, as stated by him, for training of a person for a supervisory job which would give him special promotion. In the circumstances, people who were already in service would be entitled to claim that their cases should have been considered before a junior was selected to that post. If Mr. Hill had considered the case of Mr. R. K. Das and found that he was not found fit for the new post, or if he had felt that Mr. Chokalingam was much more fitted for the new post than Mr. Das, the matter would have been different. To select a junior man without in any way considering whether persons senior to him are fit for the new post is certainly not desirable and is open to objection that the management wanted to show special favour to their pet man. It appears that Chokalingam is a member of the sports Committee in the mine and as such, he may have come in personal contact with the Mines Superintendent. Mr. Das may not have got that opportunity; but that would not be a reason why Chokalingam should be appointed without considering the claims of R. K. Das. I would therefore order that the management should consider the claim of R. K. Das for the post of underground trainee, and if he is found fit, he should be appointed to that post in the place of Chokalingam.

105. (*i*) *Lakhindar Patnaik,* (*j*) *Govinda and* (*k*) *Bibhuti K. Khawas.*—As I said above, the claims of these workmen were not pressed by the Union at the time of hearing.

106. (*l*) *Kirandhar Pandey.*—The Union claim that this fitter should be promoted to the grade of fitter, first class, looking to the length of his service, as people with lesser service have been promoted to that grade, thereby superseding this workman. The management's case is that this workman was given a trade test for promotion to fitter, first class but failed to qualify for the same. The workman has been examined at Exhibit 30. He has stated that he has been working as a fitter for over 17 years and is drawing a pay of fitter, second class. He has further said that almost all the fitters now working as fitter, first class, are junior to him in service. He further says that he would be able to do all the work which is done by a first class fitter. He has admitted that a trade test was taken regarding his ability to work as fitter, first class. He however denied that he failed in that test. In cross-examination, he admitted that the test was taken by the Mining Engineer, Mr. Haldene, who did not tell him whether he passed or failed in the test but he sent a report to the Head Office that he had failed in the test. The fact that on a test (examination) being held, the workman was not found fit to work as fitter, first class, would be sufficient reply to his claim for promotion. Promotion to the first grade would not be a matter of course, and no one can claim promotion as a matter of right, unless he is fit for the promotion. In this case, he has been found not fit and the management were right in not promoting him. His claim therefore must be rejected.

107. (*m*) *Francis.*—He is also fitter, second class, and the union urge that he should be promoted to the post of fitter, first class, as he is a senior man. The management has urged that this workman has not shown sufficient ability to warrant promotion and the manner in which he performs his duty is far from satisfactory. This workman has been examined at Exhibit 31 and he has said that he is working as a fitter in the mine for the last 18 years, that he is senior to most of the fitters who are working at the mines; that he is working as a second class fitter while 8 or 10 fitters who are junior to him are working as first class fitters, and lastly that he is fit to do all the work which is done by the first class fitters and he would be able to do that work. He has not been cross-examined at all, nor has any evidence has been led to show that he is not fit to be a first class fitter or that his work has been unsatisfactory. It could not therefore be said that this workmen to contribute towards this High School, which would, as I said above, that any trade test was taken regarding his fitness for promotion to this post as was done in the case of the (previous) workman Khirandar Pandey. I would therefore order that the management should hold a trade test for the fitness of this workman and if found fit in that test, he should be promoted to the post of a first class fitter.

108. (n) *N. N. Naik and* (o) *A. Rahman.*—The cases of these workmen were given up by the Union at the time of hearing and no evidence has been led regarding their complaints.

ISSUE No. 6

Whether the existing school should be raised to the status of a High School with the medium of instruction as Hindi and English only

109. In the written statement, the Union has said that there is at present a Middle School with five classes and a teaching staff of 17. It is further mentioned that there are about 5,000 students and the monthly average expenditure comes to approximately Rs. 2,000. It is then mentioned that the whole expenditure is borne by the company except a very small portion which comes in the way of school fees and grants in aid from the Local Board. The Union then says that the status of the school be raised to a high school with the medium of instruction in Hindi and English only. Lastly the Union states that the workers were prepared to bear a big slice of the expenditure by way of regular monthly subscription and it was hoped that the company would agree to shoulder the remaining expenses. In reply to this, the management have stated in their written statement that although the industry has to a certain extent shouldered the burden of providing limited educational facilities to the children of its employees, this was in reality a State responsibility. They then said that this demand was brought up before the 1949 adjudication and the Tribunal suggested that the educational authorities should be moved in the matter. The management had constructed an entirely new school at a cost of Rs. 80,000. The school was run by a Committee but the Corporation donated a heavy subscription towards its upkeep. Lastly the company urged that the raising of the school to the High School standard would be very costly and the educational authorities should be moved in the matter. It was also urged that this was not an issue for an industrial dispute.

110. I do feel that there is considerable force in the contention that the provision for a High School for the education of the children of the employees cannot be said to constitute an industrial dispute. Education is primarily the responsibility of the State and a dispute connected with it cannot be said to be an industrial dispute. Assuming, however, that it is an industrial dispute, I do not agree with the contention of the union that the management should be ordered to raise the standard of the present existing school to the status of High School.

111. The existing school is run by a Committee, the constitution whereof has been produced before me at Exhibit 148. It would appear from that, that the Committee is to consist of 15 members. The Mine Superintendent of the Mines and the Assistant Superintendent of Mines are to be *ex-officio* President and Vice-President respectively and the retail store-keeper of the mines is the *ex-officio* treasurer. All the three of them were to be members of the Committee. The Medical Officer of the Mosaboni hospital was to be a member of the Committee as representing public health and the Welfare Officer of the mines was also to be a member as representing welfare. In addition to these five members, there were to be three members elected by guardians of the school students and four members to be elected by the paying public including employees. The Head Master was to be a member. There was to be one member representing teachers and one member was to be nominated as a local representative. It would thus appear that the Indian Copper Corporation Limited has not got absolute control over the school. The Union has demanded that the existing school should be raised to the status of a High School and the proper person who can do so would be the committee of the School. Even if the management were directed to do so, they would not be in a position to carry out the directions. In other words, as the company is not directly responsible for the management of the school, it would have no direct voice in raising its standard and no order can be passed against it, directing it to raise the standard to that of a High School.

112. I may mention here that this very question was raised by the Union at the time of 1949 adjudication as issue No. 24 therein. It was then urged by the Union that the School should be elevated to the status of a High School and my learned predecessor directed that if the Union so desired, it could join hands with the company and move the educational authorities concerned to raise the School to the status of a High School. Nothing appears to have been done in the matter after the award. With great respect, I agree that the proper thing to be done in this connection would be for the Union and the company together to move the educational authorities to see that the status of the school was raised to that of a High School.

113. The second objection in this connection is regarding the cost that would have to be incurred if the status of the School were to be raised. The company has constructed a new school at the cost of Rs. 80,000. If the status of the school were to be raised, further construction would have to be made and a large amount have to be spent in that respect. To my suggestion that the school could be run by shifts, I was told both by management and the Union that even at present the school runs by shifts, the main reason being that the (Middle) School is run with five regional languages. The employees of the mines come from different parts of the country and have different mother tongues with the result that the Middle School has to be run with five different languages. The raising of the standard of the School to High School standard would thus require a considerable capital, for constructing a building. It would also require further funds for running expenses. The Union has realised this difficulty and hence in their written statement, they have said that they were prepared to bear a big slice of the expenditure by way of regular monthly subscription. At the time of the hearing, they also offered certain terms for converting the present school to a High School and these terms are at Exhibit 32. Under these terms, they said that one half of the expenses required for the construction of accommodation for the upper classes shall be subscribed by the workmen. They then said that deductions should be made from the wages of the workmen as mentioned therein and that these deductions should be utilised towards the running expenses required for the higher classes. It was lastly mentioned that deductions should start from the month of July 1953 and the amount collected by such deductions upto June 1954 should be treated as the amount paid by the workmen for the construction of accommodation. It was urged that by doing so, the management would have to meet only half the cost of construction of the additional accommodation, and would probably have to incur no additional expenditure for running expenses.

114. The management's contention in this respect was that it had no power to make deductions from the wages of the workmen for running the School. Mr. Sanyal on behalf of the Union urged, however, that deduction could be made by the management under Section 7(2)(h) of the Payment of Wages Act if this Tribunal directed it to do so. He further urged that the powers of this Tribunal in this connection are unlimited and it should therefore order the management to raise the standard of the School to that of a High School and also empower it to make deductions from the wages of the workmen as mentioned in the terms Exhibit 32. I am doubtful whether I have the power under Section 7(2)(h) of the Payment of Wages Act to order deductions from the wages of the workmen for raising funds for a school; but assuming that I have the power to do so, I feel it would not be proper to pass such an order.

115. At present, there is a Middle School with medium of five different regional languages. The proposal is to raise its standard to a High School with only one medium, namely Hindi. Such a School would obviously work to the advantage only of a section of the workmen. As a matter of fact, so far as the High School education is concerned, all the workmen would not be interested in it. Especially the labourers would not be much benefited by the raising the standard to that of a High School. Again only a section of the workmen would be able to take advantage of the High School; because its medium of instruction is to be confined only to Hindi and not to the other four regional languages which are at present in vogue in the Middle School. It would therefore not be fair to ask all the workmen to contribute towards this High School, which would, as I said above, confer a benefit only on a small portion of the workmen. In this connection, I may also mention that the school would be available for the children of non-employees also and it would mean that even the smallest paid workmen would be forced to contribute towards the school, of which even outsiders would be getting advantage. Looking to the fact that raising the School to a High School standard would confer benefit on the children of a very small class of workmen, I think it would not be fair or proper to direct that deductions should be made from the pay of all workmen for this.

116. I may also mention that though there is an offer Exhibit 32 on behalf of the Union there may be several workmen who may not be members of the Union and it would not be fair to order deductions to be made from their wages merely because the Union has proposed to do so. In my opinion, this proposal of the Union cannot and should not be accepted. In any case, therefore, this demand of the workmen cannot be granted and as I said above, the proper course for them would be to join with the management and approach Government in the matter.

ISSUE NO. 7.

Whether the office boys of the underground time offices should be designated as carbide distributors and their rates of pay adjusted accordingly.

117. The Union's case on this issue is put up at page 16 of their written statement and the management's reply thereto is at page 41 of their written statement.

The Union contends that the designation of Carbide Distributor was created on 1-10-1945 at the rate of As. 12 per day and all the office boys of the underground time offices were to be designated as Carbide Distributors. They urge that only one office boy got this designation and others did not get it though the nature of employment remained the same. They urge that there are nine office boys belonging to the underground department who are paid As. 6 to As. 12 per day which was unfair and all of them should be designated as Carbide Distributors and their rates of pay adjusted accordingly. In reply to this, the management contended that the duty of issuing carbide was carried out by the office boys as a part-time job and this work only took not more than 30 minutes to perform at the beginning of each shift, for which the office boys were given As. 4 as special pay. They urged that it was not reasonable that they should be given designation for a job which took so little time and for which they were amply rewarded. It was said that this designation was given once to a mazdoor quite wrongly and that at no other place this designation was ever in existence. Lastly they say that the designation could only be applied in a mine where lamps were owned, attended to, repaired and filled by the company itself, where one man can prepare hundreds of lamps and issue them, while in the mines of the company, the miners own their own lamps and take them home.

118. Unfortunately, neither party has laid any evidence on the point. The post of a Carbide Distributor is mentioned at item No. 28 under the underground department in Appendix B of the 1949 award and the adjudicator awarded them a pay of Rs. 1-4 rising to Rs. 1-9 by an annual increment of anna 1. It may be mentioned here that there is no post of an office boy mentioned in this appendix. In view of the fact that the 1949 award clearly mentioned the post of Carbide Distributor, it was incumbent on the management to show that at no time did such a post exist. Their allegation is that this work is a part-time job and it has been so all along. Their case is also that this work was done by office boys who were given a special allowance for doing this work. In spite of this, the 1949 award mentioned carbide distributors as a separate category of workers. If the management felt that this was not correct, they should have laid evidence to show that there was no post of a Carbide Distributor as such. I may repeat that the 1949 award does not make mention of any post of an office boy. Probably the management now name the persons doing the work of Carbide Distributors as office boys to avoid paying them the wages prescribed by the 1949 award. They are not entitled to do so. In the absence of any evidence to the contrary, I must hold that the persons who are doing this work of distributing carbide must be called Carbide Distributors and paid wages as laid down in the 1949 award.

ISSUE NO. 8

Whether or not the employees at the mines are entitled to any wages for the period of lay-out as a result of the strike at the Moubhandar Factory and to what extent.

119. To understand the dispute which is the subject matter of this issue, a few facts would have to be stated at the outset. As I mentioned above, the company had a scheme under which the workmen were entitled to profit sharing bonus. In 1951, the company made huge profits and the workmen naturally wanted that their bonus should be increased. Under the scheme which was in force at that time, they would have been entitled to 4 weeks' wages as bonus. They claimed a greater bonus and a dispute arose on this point. It appears that on 22nd December 1952, the workers of the Mosaboni mines went on strike on various issues, including the question of profit sharing bonus. On 24th December 1952, an agreement was arrived at between the company and the Mosboni workers' Union, whereunder it was agreed *inter alia* that the employees should be paid 6½ weeks wages in advance towards the bonus payable to them. It was further agreed that this was without prejudice to the question as to what bonus they would be entitled to. That question was to be taken up for mutual discussion on 23rd January 1953 and the amount of advance payment of 6½ weeks wages was to be adjusted from the amount of profit sharing bonus which may be settled between the parties as a result of mutual discussion, conciliation or adjudication. Payment as above was to be commenced from 17th January 1953. The strike was called off. The management began to pay the 6½ weeks wages towards bonus to the workmen of the Mosaboni mines, from 17th January 1953, as agreed. It appears that the Moubhandar workmen also demanded greater bonus for 1951; and some of them also demanded that they should be paid 6½ weeks wages in advance towards the bonus payable to them. It is alleged that the management refused to do so, with the result that the Moubhandar workmen started a strike on 28th February 1953. As I mentioned above, the work at the mines and the work at the factory are inter-connected. Most of the ore extracted from the mines is sent to the

factory, with the result that when the factory workmen struck work, the management found it inconvenient to work the mines in full, because that would have accumulated their stock. So they decided to lay off the workmen of the Mosaboni mines for three days in a week from 24th March 1953 till 4th June 1953, when the Moubhandar factory strike was called off, as a result of an agreement between the management and the Union of the Moubhandar factory workmen. The contention of the Union in the present case is that the strike at Moubhandar was as a result of the action of the management in not paying 6½ weeks wages in advance towards bonus to the Moubhandar factory workers, as they did to the Mosaboni workers. They urge that the request of the Moubhandar workers was reasonable and the management by refusing to accept that request precipitated the strike, and further that the management could have stopped the strike if they *bona fide* wanted to do so by paying 6½ weeks wages in advance towards bonus to Moubhandar workmen, as they had done in the case of Mosaboni mines workers. Mr. Sanyal, on behalf of the workmen, also argued that Rule 7 of the Standing orders of the company (Exhibit 76) would not help the company because the management can claim advantage of that clause, only if they had acted *bona fide*. Rule 7 of the Standing Orders lays down that the company may at any time or times in the event of a fire, catastrophe, breakdown of machinery or stoppage of power supply, epidemic, strike, slow down, civil commotion or other causes beyond the control of the company, stop wholly or partly the mines or the works at Moubhandar without notice or compensation in lieu of notice. It was urged that the strike at Moubhandar was not beyond the control of the company and that the company was actually responsible for it; because they had refused a reasonable request of the Moubhandar workers and tried to treat the Mosaboni workers and the Moubhandar Workers in different way. On the other hand, the management urged that they were in no way responsible for the Moubhandar workmen's strike and that they could not make payment of 6½ weeks wages to the Moubhandar workers, because their Union said that it could not and should not be done.

120. Exhibit 72 is a letter written by the General Secretary of the Moubhandar Workmen's Union to the management on 8th January 1953. In para. 2 of that letter, they have asked the manager to note that the Union had requested him on 5th January 1953 to open discussions regarding the profit sharing bonus issue before acceptance of any advance. In the last paragraph, the Union stated that they felt strongly that any advance given to the workers without a basis being worked out for the payment of profit sharing bonus for the year 1951 would create confusion and discontent among the workers. It appears that before this, on 3rd January 1953, the management had received a letter Exhibit 65, purporting to have been signed by 1400 and more workmen asking for a payment of bonus "on account". It was urged that they were prepared to make a payment of 6½ weeks wages as advance towards the bonus but for the fact that the Union, who represented the workmen of Moubhandar, stated that such a payment would create confusion and discontent. Exhibit 71 is a letter dated 17th January 1953 from the Assistant Commissioner of Labour to the management wherein he has stated that he understood that the Moubhandar Labour Union had not agreed to accept advance of 6½ weeks wages against profit sharing bonus for 1951. On 23rd January 1953, some of the signatories to the above mentioned application Exhibit 65 requested the management by letter, Exhibit 146, to return the application to them. Accordingly the management wrote the letter, Exhibit 64, to these workmen on the very day returning the petition and stating therein that the management had not ignored their request for 6½ weeks wages but they were informed by the Assistant Labour Commissioner that neither he nor the management had the right to act against the wishes of the duly recognised Moubhandar Labour Union, without their having to take the consequences of such action. It appears that negotiations and discussions went on between the management and the Moubhandar Union for fixing basis of bonus for 1951 but without any result. Thereupon the Moubhandar Union called a strike of the Moubhandar workmen from 28th February 1953. As I said above, this led to the laying off of the Mosaboni mines workmen for three days in a week from 24th March 1953 to 4th June 1953, when the Moubhandar strike was called off.

121. In the meanwhile, the Mines Superintendent had issued a notice, Exhibit 78, to the mines workmen on 10th February 1953 stating that the Moubhandar Labour Union had given a notice to the management of a strike to take effect from 15th and that if the strike materialised, the mines production would naturally be affected and if necessary, the employees would be notified in due course. On 18th February 1953, the Mines Superintendent gave another notice, Exhibit 79, to the workmen of the mines stating that unless the Government intervened, the strike of Moubhandar workmen would, according to the Moubhandar Labour Union, take place at or towards the end of the month, thus hindering the production in all the mines and that during the strike period, work would be confined to

the maintenance of essential service and such urgent repairs as may be necessary. On this, the General Secretary of the Mosaboni mines Labour Union wrote a letter to the Mines Superintendent Exhibit 82 on 20th February 1953 referring him to this notice of his and stating that in case of strike at Moubhandar, provisions for involuntary employment were to apply to the personnel at the mines and he hoped that the notice pre-supposed this. In reply to this letter, the General Manager of the company wrote a letter, Exhibit 80, on the very day to the General Secretary of the Mosaboni Mines Labour Union that in their opinion the provisions for involuntary unemployment would not apply in the event of stoppage of production resulting from the strike. After this, the union wrote a letter, Exhibit 81, on 23rd February 1953 to the General Manager of the company, stating that the union fully realised that when the contract of employment became inoperative due to circumstances beyond the control of employers, the workmen could not as a matter or right claim compensation for the period of involuntary unemployment. He further mentioned that the rules framed by the Government to meet the exigencies of wartime situation were all of a recommendatory nature but the principles of social justice and equity were always there and when the unemployment was likely to be indefinite and no notice of termination of employment was intended to be given, the Union hoped that the management would be pleased to review their decision and award a suitable retention allowance for the period the workmen were made to be tied up. After this, there must probably have been some discussion between the management and the Union, with the result that instead of closing the mine indefinitely as was contemplated under the Notice Exhibit 79, the management decided to lay off the workmen for three days per week. This they did by notice Exhibit 83 dated 23rd March 1953. All these facts are also mentioned in the letter Exhibit 87 written by the Mines Superintendent to the General Manager on 15th June 1953.

122. The above letters go to show that it could not be said that the management deliberately refused to give 6½ weeks wages as advance of bonus to the Moubhandar workmen. They were prepared to do so; but the Union of the Moubhandar workmen said that they were not prepared to accept the advance, unless the basis for calculating the bonus was agreed between the management and the Union. Actually this led to a strike and ultimately under the compromise Exhibit 63, the management and the Moubhandar Union agreed that the bonus for 1951 was to be equal to 8½ weeks wages. In other words, in January or February, the Moubhandar union was not satisfied with the mere advance of bonus but wanted the basis of calculation of bonus to be fixed first. The union further stressed that no advance should be paid towards bonus, unless the basis was settled. As parties could not agree to the basis of the calculation of the bonus, there was a strike which lasted for over three months. For this however, the management could not be held responsible. It could not be said that they did not act *bona fide* nor can it be said that they could have prevented the strike. Their letter Exhibit 64 dated 23rd January 1953, clearly mentions that they had not ignored or refused the request of the workmen in any way, but they could not grant it as it would be acting against the wishes of the duly recognised labour union.

123. It may be noted in this connection that the Mosaboni Mines labour Union also accepted this position, namely that the strike at Moubhandar was beyond the control of the employers (see letter Exhibit 81). In this letter, the union did not say that the company was responsible for the Moubhandar strike nor did they say that the company could have stopped the strike, if they had paid 6½ weeks' wages in advance towards bonus. On the contrary, the union conceded that the strike was due to circumstances beyond the control of the management. They did not then claim that the company should not stop the work at the mines but all they claimed was that the workmen should be given a retention allowance. It thus clearly shows that the present claim of the Union cannot be accepted.

124. It was argued by Mr. Sanyal on behalf of the Union that the terms of the compromise Exhibit 63 entered into between the management and Mr. John, the representative of the Moubhandar workmen's union, mentioning therein that the profit sharing bonus was to be linked with dividends showed that the compromise was not *bona fide* and that it was entered into to prejudice the present claim of the workmen that the bonus should be linked with profits and not with dividends. Whatever may have been the motive which may have influenced the Union of Moubhandar in mentioning that the bonus should be linked with the dividends when arriving at the compromise in June 1953, it could not in any way prejudice the present issue regarding the strike which had started in the end of February 1953. The question for deciding the present issue is whether the management could have prevented the strike of the Moubhandar factory and

whether their action in not paying 6½ weeks wages in advance towards bonus to the Moubhandar workers was *bona fide* or not. Looking to the attitude then taken by the Moubhandar workmen's union, I think that the management were right in not paying 6½ weeks wages as advance towards bonus. They made it clear from the outset that they were not unwilling to pay the amount, but could not do so because of the attitude of the recognised union. The Mosaboni Union also did not find fault with the management for the strike at that time.

125. It may be noted that in Exhibit 11, the supplementary statement of the Union on this issue, it had made this claim on two grounds. Firstly that the management did not approach the Government for making a reference and secondly that the management did not pay 6½ weeks wages in advance towards bonus to the factory workers as they did in the case of the mines workers. Mr. Sanyal on behalf of the Union said that he did not press the first point about the management not having moved the Government to make a reference to adjudication but he pressed the second point that the management did not pay 6½ weeks wages towards bonus to the factory workers. As I said above, this claim is not tenable.

126. I may then mention that Mr. Sanyal on behalf of the workmen also ar ed that the management's action in declaring a lock-out and allowing the wo men work only three day in a week amounted to an illegal lock-out. He urged that there was a compromise Exhibit 66 between the management and the Mosaboni Mines Union on 24th December 1952, and that under Section 19(2) of the Industrial Disputes Act 1947, that settlement was to be binding on the parties for a period of at least six months. He further argued that Section 23(c) of the Industrial Disputes Act 1947, lays down that the employer could not declare a lock-out during the period the settlement was in force and hence refusal of giving work by the management to the workmen for three days in a week within the above period which fell within six months of the compromise amounted to an illegal lock-out. In this connection, he relied on clause 3 of the compromise Exhibit 66 which mentioned that full work was to be resumed from 26th December 1952, and he further urged that for a period of six months from this date, full work must be given to the workmen and the management's action amounted to an illegal lock-out. I cannot agree with this contention. The above clause in the compromise was a clause which entailed a duty on the workmen and not on the management. It may be remembered that the workmen had started a strike from 22nd December 1952, and on this there was a conciliation resulting in the above compromise. The first part of paragraph 3 of the compromise reads as under:

> "The strike will be called off immediately and full work resumed from 26th December, 1952."

This means that the workmen agreed to call off the strike and to resume full work. In other words, the management's action could not be said to be a contravention of the above compromise.

127. It may also be noted that the management's action in declaring a lay-out could not said to be a lock-out. A lock-out is the counter-part of a strike. All types of closure would not amount to a lock-out, just as all types of absence of work would not amount to a strike. The reason of absence from work on the part of the workmen or reason of the closure on the part of the manageme would be important to consider whether it amounted to a strike or a lock-out not. The lay-out was not for putting any pressure on the workmen. In m opinion, the lay-out was not a lock-out and in any case therefore it could not l said that the action of the management was illegal under Section 23(c) of the Industrial Disputes Act 1947.

128. I may here refer to the Industrial Disputes (Amendment) Ordinance 1953 issued on 24th October 1953, whereunder the Industrial Disputes Act 1947 has been amended. Section 25B of the Industrial Disputes Act as amended by the Ordinance lays down that workmen who are laid off are entitled to certain compensation as mentioned therein. Section 25D clause (iv) lays down that no compensation shall be paid to a workman who has been laid off if such laying off is due to a strike of production on the part of workmen in another part of the establishment. The principle enunciated by this section would also govern the present case. That principle is that if there is a strike in one part of the establishment of an industry and as a result workmen working in another part had to be laid off, they would not be entitled to compensation. If we apply the same principles to the present case, it would mean that because there was a strike by the Moubhandar factory workmen Mosaboni workmen had to be laid off and as this lay off was a result of the strike in the Moubhandar factory, the

workmen in the Mosaboni mines would not be entitled to compensation. Looking to the proximity of Moubhandar and Mosaboni and looking to the fact that copper ore mined from the mines is carried by an aerial ropeway to the Moubhandar factory, I would treat the Moubhandar factory and the Mosaboni mines as different parts of one establishment. The principles laid down in the new section introduced by the above Ordinance would also show that the workmen are not entitled to any compensation for the period of lay off. In any case, therefore, the claim of the Union on this point must be rejected.

129. This finishes all the points raised in the present dispute. I have discussed and decided each point separately under each issue and give my decision thereunder. I pass my award in terms as above.

The 31st October, 1953. (Sd.) L. P. DAVE, *Chairman.*

SCHEDULE (*See* Para 81).

Revised scale of Underground Department.

Serial No.	Designation	Scale of pay								
1	Black Rock Mazdoor	0	14	0	0	1	0	1	1	0
2	Blaster	1	9	0	0	1	0	1	11	0
								0	2	0
								1	15	0
3	Blaster Helper	0	15	0	0	1	0	1	2	0
4	Black Rock Sirdar	1	3	0	0	1	0	1	8	0
5	Bin Sirdar	1	5	0	0	1	0	1	9	0
6	Diamond Drill Handleman	1	7	0	0	1	0	1	11	0
7	Diamond Drill Cotterman	1	5	0	0	1	0	1	9	0
8	Diamond Drill Bar Mazdoor	1	0	0	0	1	0	1	3	0
9	Drain Mazdoor	0	14	0	0	1	0	1	1	0
10	Door Boys	0	14	0	0	1	0	1	1	0
11	Explosive Checker	1	8	0	0	1	0	1	11	0
								0	11	0
								1	13	0
12	Filling Sirdar Head (N. Sec.)	1	14	0	0	2	0	2	4	0
								0	1	0
								2	5	0
13	Fuse Cutter, & Capper	1	5	0	0	1	0	1	9	0
14	Foreman Timberman	90	4	110	5	120	0	..		
15	Greasing Mazdoor	0	15	0	0	1	0	1	2	0
16	Gas Fire Patrol	1	8	0	0	1	0	1	11	0
								0	2	0
								1	13	0
17	Hoisting Maistry	1	5	0	0	1	0	1	10	0
18	Hoisting Mazdoor (Main shaft)	0	15	0	0	1	0	1	5	0
19	Hoisting Mazdoor (sub incline or pilot shaft)	0	15	0	0	1	0	1	2	0
20	Hoist driver (circular shaft)	1	12	0	0	2	0	2	2	0
								0	1	0
								2	3	0
21	Hoist Driver (60 H.P. Markham hoist)	1	9	0	0	1	0	1	11	0
								0	2	0
								1	15	0
22	Hoist Driver (air)	1	5	0	0	1	0	1	9	0
23	Jumper Checker	1	5	0	0	1	0	1	9	0
24	Jumper Mazdoor	0	14	0	0	1	0	1	1	0
25	Loading Gang Maistry	1	5	0	0	1	0	1	9	0
26	Machine Handleman	1	7	0	0	1	0	1	11	0
27	Machine Cotter man	1	5	0	0	1	0	1	9	0
28	Machine Bar Mazdoor	1	0	0	0	1	0	1	3	0
29	Mucking Sirdar (Stope)	1	3	0	0	1	0	1	8	0
30	Mucking Sirdar (Special)	1	5	0	0	1	0	1	9	0
31	Main Shaft Maistry	1	7	0	0	1	0	1	11	0
32	Mucker	0	14	0	0	1	0	1	1	0
33	Pipe fitter (head)	1	8	0	0	1	0	1	11	0
								0	2	0
								1	13	0

Serial No.	Designation	Scale of pay								
34	Pipe fitter	1	6	0	0	1	0	1	10	0
35	Pipe fitter helper	0	15	0	0	1	0	1	2	0
36	Plant Sirdar	1	3	0	0	1	0	1	6	0
37	Plant Mazdoor	0	15	0	0	1	0	1	2	0
38	Pump Driver (air)	1	3	0	0	1	0	1	8	0
39	Rail Maistry (head)	1	9	0	0	1	0	1	11	0
								0	2	0
								1	15	0
40	Rail Maistry	1	5	0	0	1	0	1	9	0
41	Rail Mazdoor	0	15	0	0	1	0	1	2	0
42	Round Checker	1	1	0	0	1	0	1	8	0
43	Ringer	0	15	0	0	1	0	1	2	0
44	Shift Boss Helper	2	0	0	0	2	0	3	0	0
45	Shift Boss Assistant	100—4—120—5—150								
46	Scraper Driver	1	3	0	0	1	0	1	8	0
47	Shaft Maistry (construction)	2	0	0	0	2	0	3	0	0
48	Shaft Maistry (sub incline of pilot shaft)	1	4	0	0	1	0	1	10	0
								0	2	0
								1	12	0
49	Shaft Oil Boy	0	15	0	0	1	0	1	4	0
50	Shaft Mazdoor (sub incline)	0	15	0	0	1	0	1	3	0
51	Sweeper underground	0	15	0	0	1	0	1	2	0
52	Sweeper (Head) Underground	1	5	0	0	1	0	1	9	0
53	Trammer Surface	0	12	0	0	1	0	0	15	0
54	Trammer underground	0	15	0	0	1	0	1	2	0
55	Tramming Sirdar	1	6	0	0	1	0	1	10	0
56	Timber Maistry (head)	1	9	0	0	1	0	1	10	0
								0	2	0
								2	8	0
57	Timber Maistry	1	7	0	0	1	0	1	11	0
58	Timber Mazdoor	1	1	0	0	1	0	1	4	0
59	Tea Boys	0	15	0	0	1	0	1	2	0
60	Truck greaser	1	1	0	0	1	0	1	5	0
61	Ventilation Mazdoor	0	15	0	0	1	0	1	2	0

(No. LR-2 (379).]

ORDER

New Delhi, the 16th November 1953

S.R.O. 2152.—In exercise of the powers conferred by section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby directs that the following amendment shall be made in the Order of the Government of India in the Ministry of Labour No. S.R.O. 1615, dated the 5th August 1953, namely:—

In column 4 against serial number 11 in the Schedule to the said Order, for the words "Suspension from service" the words "Dismissal from service" shall be substituted.

[No. LR-100(89).]

P. S. EASWARAN, Under Secy.

New Delhi, the 11th November 1953

S.R.O. 2153.—In exercise of the powers conferred by Section 4 of the Mica Mines Labour Welfare Fund Act, 1946 (XXII of 1946), read with clause (a) of sub-rule (4) of rule 3 of the Mica Mines Labour Welfare Fund Rules, 1948, the Central Government hereby appoints Shri Mangi Lal of Tehari as a member of the Advisory Committee for the State of Ajmer constituted under the notification of the Government of India in the Ministry of Labour No. S.R.O. 248, dated the 30th January 1952, *vice* Shri Mohammed Aslam.

[No. M-23(4)53.]

New Delhi, the 16th November 1953

S.R.O. 2154.—In exercise of the powers conferred by section 4 of the Mica Mines Labour Welfare Fund Act, 1946 (XXII of 1946), read with clause (a) of sub-rule (4) of rule 3 of the Mica Mines Labour Welfare Fund Rules, 1948, the Central Government hereby appoints Shri A. M. Joshi, Conciliation Officer (Central), Ajmer, as a member of the Mica Mines Labour Welfare Fund Advisory Committee for the State of Ajmer, constituted by the notification of the Government of India in the Ministry of Labour No. S.R.O. 248, dated the 30th January, 1952, *vice* Shri Hari Singh, Regional Labour Commissioner (Central), Nagpur.

[No. M-23(7)52.]

A. P. VEERA RAGHAVAN, Under Secy.

New Delhi, the 16th November 1953

S.R.O. 2155.—In pursuance of section 4 of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby directs that the Employees' State Insurance Corporation established under sub-section (1) of section 3 of the said Act in the notification of the Government of India in the Ministry of Labour, No. S.S.21(2)(2), dated the 6th September, 1948, shall, with effect from the date of publication of this notification in the Official Gazette, consist of the following members, namely:—

Chairman

1. The Minister for Labour in the Central Government, *ex-officio*.

Vice-Chairman

2. The Minister for Health in the Central Government, *ex-officio*.

Members

[*Nominated by the Central Government under clause (c) of section 4*]

3. Shri K. N. Subramanian, I.C.S., Secretary to the Government of India, Ministry of Labour.
4. Lt.-Col. C. K. Lakshmanan, Director-General of Health Services.
5. Shri R. Narayanaswami, Joint Secretary to the Government of India, Ministry of Finance (Rehabilitation & Food Division).
6. Shri N. S. Mankiker, Chief Adviser, Factories.
7. Shri S. Neelakantam, Deputy Secretary to the Government of India, Ministry of Labour.

[*Nominated by the State Governments of Part 'A' and Part 'B' States under clause (d) of section 4*]

8. Shri S. K. Mallick, I.C.S., Secretary to the Government of Assam, Labour Department, Shillong.
9. Shri R. S. Pande, I.A.S., Secretary to the Government of Bihar, Labour Department, Patna.
10. Shri J. D. Kapadia, I.C.S., Secretary to the Government of Bombay, Development Department, Bombay.
11. Shri P. K. Sen, Labour Commissioner, Madhya Pradesh, Nagpur.
12. Shri S. R. Maini, I.A.S., Secretary to the Government of Punjab, Health and Local Self Government Departments, Chandigarh.
13. Shri C. G. Reddi, Commissioner of Labour, Madras.
14. Dr. H. B. Mohanty, Secretary to the Government of Orissa, Labour Department, Bhubaneshwar.
15. Shri O. N. Misra, I.A.S., Labour Commissioner, Uttar Pradesh, Kanpur.
16. Shri D. S. P. Mukherjee, Joint Secretary, Commerce, Labour and Industries Department, Government of West Bengal, Calcutta.
17. Shri C. R. Reddy, Commissioner of Labour, Andhra.
18. Syed Abdul Lateef Razvi, I.A.S., Joint Secretary to the Government of Hyderabad, Labour Department, Hyderabad.
19. Shri B. S. Puttaswami, Commissioner of Labour in Mysore, Bangalore.
20. Shri A. S. Banawalikar, Commissioner of Labour, Madhya Bharat, Indore.
21. Shri G. L. Mehta, I.A.S., Secretary to the Government of Rajasthan, Commerce, Industries and Labour Department, Jaipur.

22. Shri M. K. Devassey, Labour Commissioner, Trivandrum.

23. Sardar Jaidev Singh Sodhi, I.A.S., Secretary to the Government of Patiala & East Punjab States Union, Industries, Supplies and Labour Department, Patiala.

24. Shri D. K. Badheka, Commissioner of Labour, Government of Saurashtra, Rajkot.

[*Nominated by the Central Government under clause (e) of section 4 to represent the Part 'C' States*]

25. Dr. B. R. Seth, Director of Industries & Labour, Delhi.

[*Nominated by the Central Government under clause (f) of section 4 in consultation with organisations of employers*]

26. Shri G. D. Somani, M.P., Shree Niwas House, Waudby Road, Bombay-1.

27. Mr. Allan Elliot Lockhart, Messrs. Gladstone Lyall & Co. Ltd., 4, Fairlie Place, Calcutta.

28. Shri Madanmohan Mangaldas, Mangal Bagh, Ellis Bridge, Ahmedabad.

29. Shri S. C. Roy, Aryasthan Insurance Building, 15, Chittaranjan Avenue, Calcutta.

30. Shri K. N. Modi, C/o Modi Spinning & Weaving Mills Ltd., Modinagar, Meerut.

[*Nominated by the Central Government under clause (g) of section 4 in consultation with organisations of employees*]

31. Shri Somnath P. Dave, M.P., Secretary Textile Labour Association, Gandhi Mazdoor Sevalaya, Bhadra, Ahmedabad.

32. Shri Nirmal Kumal Sen, Babuganj, Chinsurah, Hooghly.

33. Shri Kashinath Pandey, General Secretary, I.N.T.U.C., U.P. Branch, Shahnsah Manzil, Baroodkhana, Golaganj, Lucknow.

34. Shri S. A. Dange, General Secretary, A.I.T.U.C., R. L. Trust Building, 55, Girgaon Road, Bombay-4.

35. Shri V. B. Karnik, Ratilal Mansion, Parekh Street, Girgaum, Bombay-4.

[*Nominated by the Central Government under clause (h) of section 4 in consultation with organisations of medical practitioners*]

36. Dr. Chamanlal M. Mehta, Shri Niwas, Sandhurst Road, Bombay-4.

37. Dr. V. D. Sathaye, 502, Narayan Peth, Poona-2.

[*Elected by Parliament under clause (i) of section 4*]

38. Shri Gopinath Singh.

39. Shri Khandubhai K. Desai.

[No. S.S.121(61).]

S. NEELAKANTAM, Dy. Secy.

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